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2. [Index \(including entries through 12/31/02\)](#)
3. [How to Use This Index Reference](#)

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2. [California Rules of Professional Conduct](#)
3. [State Bar Ethics Opinions](#)
4. [Handbook on Client Trust Accounting for California Attorneys](#)
5. [Draft Rules Under Consideration by the Commission for the Revision of the Rules of Professional Conduct](#)

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CALIFORNIA COMPENDIUM ON PROFESSIONAL RESPONSIBILITY

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ABA [See American Bar Association.]

ABANDONMENT OF CLIENT [See Competence, substitution of counsel. Moral turpitude. Neglect. Substitution of counsel. Termination of attorney-client relationship. Withdrawal.]

Business and Professions Code section 6067

ABUSE OF PROCESS [See Malicious prosecution.]

ACADEMIC DEGREES [See Advertising, use of.]

Use of

LA 349 (1975), LA 331 (1973), LA 113 (1937)

SD 1974-10, SD 1972-8, SD 1970-1, SD 1969-5, SD 1968-1
SF 1973-7

ACCEPTANCE OF EMPLOYMENT [See Attorney-client relationship. Conflict of interest.]

Rule 2-110, Rules of Professional Conduct (operative until May 26, 1989)

Rule 3-200, Rules of Professional Conduct (operative as of May 27, 1989)

Adverse

to former client

Gendron v. State Bar (1983) 35 Cal.3d 409, 411

-representation of corporation against officers and directors

--formerly associated with firm representing officers and directors

LA 139 (1941)

Adverse interest

to former client

-in related matter

LA 136 (1941)

Adverse to client

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-institution of proceedings for appointment of

--by attorney

LA 138 (1941)

Appointment of counsel to serve as advisor to criminal defendant refusal to accept

Chaleff v. Superior Court (1977) 69 Cal.App.3d 721 [138 Cal.Rptr. 735]

Attorney must decline representation where attorney lacks time and resources to pursue client's case with reasonable diligence

in both paid and pro bono representations

Segal v. State Bar (1988) 44 Cal.3d 1077 [245 Cal.Rptr. 404]

By attorney

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-of real estate business

--associated with attorney

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LA 140 (1942)

Bad faith appeal

Danziger v. Peebler (1948) 88 Cal.App.2d 307, 312 [198 P.2d 719]

Duty to counsel or maintain only legal or just actions

Sorensen v. State Bar (1991) 52 Cal.3d 1036

In re Scott (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 446

Duty to decline to file pleading which advances totally meritless and frivolous positions

LA 464 (1991)

Frivolous appeal

Business and Professions Code section 6068(c)

Code of Civil Procedure section 907

California Rules of Court, rule 26(a)

civil proceeding

-attorney fees awarded at discretion of trial court; absent clear abuse appeal of award is frivolous [See sanctions.]

--mortgage foreclosure

Huber v. Shedaudy (1919) 180 Cal. 311

--spousal support action

Marriage of Millet (1974) 41 Cal.App.3d 729 [116 Cal.Rptr. 390]

-attorney has responsibility not to pursue a client's frivolous appeal because client demands

Cosenza v. Kramer (1984) 152 Cal.App.3d 1100 [200 Cal.Rptr. 18]

-definition of frivolous appeal

In re Marriage of Flaherty (1982) 31 Cal.3d 637

DeRose v. Heurlin (2002) 100 Cal.App.4th 158 [122 Cal.Rptr.2d 630]

Guardianship of Pankey (1974) 38 Cal.App.3d 919 [113 Cal.Rptr. 539]

-delay in filing briefs caused unreasonable delay

Estate of Walters (1950) 99 Cal.App.2d 552 [222 P.2d 100]

-delay is frivolous if motive is to outlive the other party through appeals

Hendricks v. Pappas (1947) 82 Cal.App.2d 774 [187 P.2d 436]

-divorce actions

--alimony

Taliaferro v. Taliaferro (1960) 180 Cal.App.2d 44 [4 Cal.Rptr. 693]

--appeal for refusal to pay court ordered payments is meritless

Ballas v. Ballas (1963) 217 Cal.App.2d 129 [31 Cal.Rptr. 584]

Muller v. Muller (1959) 174 Cal.App.2d 517 [345 P.2d 29]

--award of attorney's fee not appealable absent clear abuse

Marriage of Millet (1974) 41 Cal.App.3d 729 [116 Cal.Rptr. 390]

--bifurcated action is complicated so appeal is not frivolous

Marriage of Fink (1976) 54 Cal.App.3d 357 [126 Cal.Rptr. 626]

--full faith and credit to out-of-state divorce decree

Toohey v. Toohey (1950) 97 Cal.App.2d 84 [217 P.2d 108]

--repeated appeals

Howarth v. Howarth (1956) 148 Cal.App.2d 694 [304 P.2d 147]

-evidentiary appeals

--complaint deemed sufficient in first appeal so second appeal on sufficiency is frivolous

Sipe v. McKenna (1951) 105 Cal.App.2d 373 [233 P.2d 615]

--conflicting evidence is not appealable if trial court makes a determination

Kruckow v. Lesser (1952) 111 Cal.App.2d 198 [244 P.2d 19]

Helcomb v. Breitreutz (1919) 180 Cal. 17

--more cursory inspection of evidence required so appeal was not meritless

Crook v. Crook (1960) 184 Cal.App.2d 745 [7 Cal.Rptr. 892]

--new trial based on insufficient evidence will not be distributed by appellate court

Hall v. Murphy (1980) 187 Cal.App.2d 296 [9 Cal.Rptr. 547]

ACCEPTANCE OF EMPLOYMENT

- not supported by the evidence on appeal, so appeal meritless and taken only for delay
Danziger v. Peebler (1948) 88 Cal.App.2d 307 [198 P.2d 719]
- reversal of trial court if substantial evidence does not exist
Niyya v. Goto (1960) 181 Cal.App.2d 682 [5 Cal.Rptr. 642]
Ames v. Ames (1959) 168 Cal.App.2d 39 [335 P.2d 135]
Simon v. Bemis Bra's Bag Co. (1955) 131 Cal.App.2d 378 [280 P.2d 528]
- good faith erroneous appeal is not frivolous, court has discretion
Doyle v. Hamren (1966) 246 Cal.App.2d 733 [55 Cal.Rptr. 84]
Hall v. Murphy (1960) 187 Cal.App.2d 296 [9 Cal.Rptr. 547]
- jurisdiction for appeal improper therefore meritless
 --California cannot modify out-of-state court order
Marriage of Schwander (1978) 79 Cal.App.3d 1013 [145 Cal.Rptr. 325]
 --if federal jurisdiction clearly applies, then state court appeal is frivolous
Miller v. RKA Management (1979) 99 Cal.App.3d 460 [160 Cal.Rptr. 164]
- lack of effort on appeal suggests improper motive
 --even without actual proof
People v. Beverly Bail Bonds (1982) 134 Cal.App.3d 906 [185 Cal.Rptr. 36]
- motive improper if used to cloud title to property
Blackmore Investment Co. v. Johnson (1971) 213 Cal. 148
- multi-judgment proceeding in divorce action; appeal not frivolous in light of complicated facts
Marriage of Fink (1976) 54 Cal.App.3d 357 [126 Cal.Rptr. 626]
- multiple defendants in personal injury action; appeal frivolous as to one defendant
Scott v. Texaco (1966) 239 Cal.App.2d 431 [48 Cal.Rptr. 785]
- multiple meritless appeals lead to substantial sanctions
Reber v. Beckloff (1970) 6 Cal.App.3d 341 [85 Cal.Rptr. 807]
- municipal court merit appeals must be heard by appellate court
Gilbert v. Municipal Court (1977) 73 Cal.App.3d 723 [140 Cal.Rptr. 897]
Burrus v. Municipal Court (1973) 36 Cal.App.3d 233, 237 [111 Cal.Rptr. 539]
- new facts leading trial court to vacate order of divorce is proper; therefore an appeal of court's action is frivolous
Gordon v. Gordon (1956) 145 Cal.App.2d 231 [302 P.2d 355]
- new trial at discretion of trial court
Estate of Wall (1920) 183 Cal. 431
- notice received in child custody action; so appeal based on lack of notice is frivolous
Parker v. Parker (1974) 43 Cal.App.3d 610 [117 Cal.Rptr. 858]
- objective standard for improper motive
Marriage of Flaherty (1982) 31 Cal.3d 637
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Menasco v. Snyder (1984) 157 Cal.App.3d 729 [203 Cal.Rptr. 748]
Conservatorship of Gollack (1982) 130 Cal.App.3d 271 [181 Cal.Rptr. 547]
- partially frivolous appeal
 --part must be significant and material to the appeal before sanctions imposed
Maple Properties v. Harris (1984) 158 Cal.App.3d 997 [205 Cal.Rptr. 532]
- patently meritless appeal based on court misconduct where court had exchanged a superficial pleasantries with one party and not the other
Conservatorship of Gollack (1982) 130 Cal.App.3d 271 [181 Cal.Rptr. 547]
- pleading defects waived or cured; therefore the appeal is frivolous for delay
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 Rule 3-200, Rules of Professional Conduct (operative as of May 27, 1989)
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- previously litigated contentions are frivolous as appeal
Clark v. Universal Underwriters (1965) 233 Cal.App.2d 746 [43 Cal.Rptr. 822]
Stafford v. Russell (1954) 128 Cal.App.2d 794 [276 P.2d 41]
- procedural objections must be made at trial court level
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- reasonableness of damages challenged by defendant at trial court level
 --not challenged by plaintiff before closing arguments
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 --plaintiff appeal based on defendant's prejudicial misconduct is meritless
Menasco v. Snyder (1984) 157 Cal.App.3d 729 [203 Cal.Rptr. 748]
 --reversal of trial court not argued for in appellate brief; denied reversal, but not frivolous
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- sanctions
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 --factors used to determine sanctions
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 --interest on settlement funds as well as attorney fees may be imposed
McConnell v. Merrill Lynch (1985) 176 Cal.App.3d 480
 --maintaining a second appeal based on parallel issues after first appeal received an unfavorable decision
Cohen v. General Motors Corp. (1992) 2 Cal.App.4th 893
 --"rational relationship" to circumstances as standard for sanctions when clear evidence of damages is lacking
Hersch v. Citizens Savings & Loan Assoc. (1983) 146 Cal.App.3d 1002 [194 Cal.Rptr. 628]
 --sanctions for multiple meritless claims
Reber v. Beckloff (1970) 6 Cal.App.3d 341 [85 Cal.Rptr. 807]
 --subjective bad faith or motive required
Llamas v. Diaz (1990) 218 Cal.App.3d 1043 [267 Cal.Rptr. 427]
- simply meritless appeal is not frivolous
Marriage of Flaherty (1982) 31 Cal.3d 637 [183 Cal.Rptr. 508]
- solely for delay
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- spite as a motive is frivolous
 Rule 2-110, Rules of Professional Conduct (operative until May 26, 1989)
 Rule 3-200, Rules of Professional Conduct (operative as of May 27, 1989)
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ACCEPTANCE OF EMPLOYMENT

- suit with no questions of law or fact remaining
 - libel
 - Maple Properties v. Harris (1984) 158 Cal.App.3d 997 [205 Cal.Rptr. 532]
 - Katz v. Rosen (1975) 48 Cal.App.3d 1032 [121 Cal.Rptr. 853]
 - real estate commission action
 - Towle v. Lewis (1969) 274 Cal.App.2d 376 [79 Cal.Rptr. 58]
 - Supreme Court adjudication is law of the case; so further appeal on same matter is meritless and improper
 - Maple Properties v. Harris (1984) 158 Cal.App.3d 997 [205 Cal.Rptr. 532]
 - waiver of right to appeal in settlement makes the appeal frivolous for delay
 - McConnell v. Merrill Lynch (1985) 176 Cal.App.3d 480
 - wholly inadequate appeal is frivolous
 - McCosker v. McCosker (1954) 122 Cal.App.2d 498 [265 P.2d 21]
 - will contest is personal; so an appeal may not be frivolous
 - Estate of Bloom (1980) 107 Cal.App.3d 195 [165 Cal.Rptr. 591]
 - writ of execution on sale of property is quashed by trial court at its discretion; appeal therefore is frivolous
 - Wellborn v. Wellborn (1945) 67 Cal.App.2d 545 [155 P.2d 99]
 - criminal proceeding
 - appeal on jurisdiction and legality of the proceedings where no error existed is meritless
 - People v. Wallace (1963) 217 Cal.App.2d 440 [31 Cal.Rptr. 697]
 - death penalty appeals exhausted; re-appeal on same issues is frivolous
 - People v. Smith (1933) 218 Cal. 484, 489
 - dismissal of frivolous appeals should be used sparingly in criminal matters
 - People v. Sumner (1968) 262 Cal.App.2d 409, 414-415 [69 Cal.Rptr. 15]
 - limited review of errors of fact or factual disputes; appeal was frivolous
 - Edwards v. People (1950) 99 Cal.App.2d 216 [221 P.2d 336]
 - facts not known or available to defendant at the time of the verdict
 - People v. Malone (1950) 96 Cal.App.2d 270 [215 P.2d 109]
 - withdrawal
 - attorney may include brief to support
 - McCoy v. Court of Appeals of Wisconsin (1988) 486 U.S. 429 [108 S.Ct. 1895]
 - Frivolous motion
 - In re Disciplinary Action Mooney (9th Cir. 1988) 841 F.2d 1003
 - In propria persona litigant
 - LA 502 (1999)
 - Malicious prosecution
 - attorney is jointly liable with client for malicious prosecution
 - Tool Research & Engineering v. Henigson (1975) 46 Cal.App.3d 675 [120 Cal.Rptr. 291]
 - burden of proof on plaintiff to show "want of probable cause" necessary for a malicious prosecution action
 - Grant v. Moore (1866) 29 Cal. 644, 648
 - client must fully disclose all necessary facts to attorney before defense of "advice of counsel" is allowed
 - Siffert v. McDowell (1951) 103 Cal.App.2d 373, 378 [229 P.2d 388]
 - Walker v. Jensen (1949) 95 Cal.App.2d 269 [212 P.2d 569]
 - evidence of self defense kept from district attorney who then prosecutes, destroys probable cause defense
 - Starkweather v. Eddy (1930) 210 Cal. 483
 - defendant has burden of proving action taken in good faith
 - Masterson v. Pig-N-Whistle Corp. (1958) 161 Cal.App.2d 323 [326 P.2d 918]
 - discrepancies of fact not enough for court to find "want of probable cause"
 - Lee v. Levinson (1916) 173 Cal. 166
 - dismissal of action by negotiation is not "want of probable cause," but may be used as evidence
 - Weaver v. Superior Court (1979) 95 Cal.App.3d 166 [156 Cal.Rptr. 745]
 - evidence of misappropriation of money enough for probable cause, even though acquitted
 - Haydel v. Morton (1935) 8 Cal.App.2d 730
 - felony grand theft evidence is disputed; enough to show probable cause
 - Richter v. Neilson (1936) 11 Cal.App.2d 503
 - felony of grand theft acquittal was malicious prosecution because defendant had an "honest" belief that goods were plaintiff's
 - Singleton v. Singleton (1945) 68 Cal.App.2d 681 [157 P.2d 886]
 - good faith belief in action is a defense to malicious prosecution
 - Kassan v. Bledsoe (1967) 252 Cal.App.2d 810 [60 Cal.Rptr. 799]
 - malice does not exist if client acted in good faith on attorney advice
 - Brinkley v. Appeley (1969) 276 Cal.App.2d 244 [80 Cal.Rptr. 244]
 - probable cause exists even where plaintiff in first action claimed only a small portion
 - Murdock v. Gerth (1944) 65 Cal.App.2d 170
 - reliance of attorney on client's distorted facts in filing an action creates a want of probable cause
 - Albertson v. Raboff (1960) 185 Cal.App.2d 372 [8 Cal.Rptr. 398]
- Prior counsel terminated
CAL 1994-134, SD 1972-17
- Prohibited employment
- appeal
- prosecute solely for delay
 - Rule 2-110(C), Rules of Professional Conduct (operative until May 26, 1989)
 - Rule 3-200, Rules of Professional Conduct (operative as of May 27, 1989)
 - take solely for delay
 - Rule 2-110(C), Rules of Professional Conduct (operative until May 26, 1989)
 - Rule 3-200, Rules of Professional Conduct (operative as of May 27, 1989)
- litigation
- claim/defense not warranted under existing law
 - Rule 2-110(B), Rules of Professional Conduct Rules of Professional Conduct (operative until May 26, 1989)
 - Rule 3-200, Rules of Professional Conduct (operative as of May 27, 1989)
 - good faith exception
 - Rule 2-110(B), Rules of Professional Conduct (operative until May 26, 1989)
 - Rule 3-200, Rules of Professional Conduct (operative as of May 27, 1989)
 - Rule 2-110(C), Rules of Professional Conduct (operative until May 26, 1989)
 - Rule 3-200, Rules of Professional Conduct (operative as of May 27, 1989)
- malicious injury to a person
- bringing action, conducting defense or asserting position in litigation
 - Rule 2-110(A), Rules of Professional Conduct (operative until May 26, 1989)
 - Rule 3-200, Rules of Professional Conduct (operative as of May 27, 1989)

ACCOUNTANT

-harassing a person by bringing action, conducting defense, or asserting position in litigation
Rule 2-110(A), Rules of Professional Conduct (operative until May 26, 1989)
Rule 3-200, Rules of Professional Conduct (operative as of May 27, 1989)
Rule 3-200, Rules of Professional Conduct (operative as of May 27, 1989)

-spite, prosecute, or defend action solely out of
Sorensen v. State Bar (1991) 52 Cal.3d 1036

Special appearance by an attorney results in the formation of an attorney-client relationship with the litigant
Streit v. Covington & Crowe (2000) 82 Cal.App.4th 441 [82 Cal.Rptr.2d 193]
In re Valinoti (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 498

ACCOUNTANT [See Business activity and Practice of law, dual occupation.]

ACCOUNTING [See Business Activity and Practice of Law.]

[See Clients' trust account, accounting.]

ADDRESS [See Advertising. Solicitation.]

Attorney's failure to keep current address with the State Bar of California

Business and Professions Code section 6002.1

Bowles v. State Bar (1989) 48 Cal.3d 100 [255 Cal. Rptr. 846, 768 P.2d 65]

Lyden v. State Bar (1988) 45 Cal.3d 1181 [248 Cal.Rptr. 830]
In the Matter of Bailey (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 220

In the Matter of Freydl (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 349

In the Matter of Lilley (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 476

ADJUSTER [See Lay employee.]

Act for employer; later represent against in same matter as lawyer
LA 216 (1953)

Former acts against former employer
LA 216 (1953)

Settlement negotiated with or by
SD 1978-8

ADMINISTRATIVE AGENCY [See Public office.]

Federal

foreign attorney appears before
LA 168 (1948), LA 156 (1945)

Foreign attorney practices before
LA 168 (1948), LA 156 (1945)

Law student appears before
SD 1974-1, SD 1973-9

Lay person appears before
LA 195 (1952), LA 143 (1943)
SD 1974-1, SD 1973-9

ADMISSION TO THE BAR [See Candor. Moral Turpitude.]

Business and Professions Code section 6060 et seq.

Rule 1-101, Rules of Professional Conduct (operative until May 26, 1989)

Rule 1-200, Rules of Professional Conduct (operative as of May 27, 1989)

Admission denied

Greene v. Committee of Bar Examiners (1971) 4 Cal.3d 189
Bernstein v. Committee of Bar Examiners (1968) 69 Cal.2d 90
history of drug trafficking

Seide v. Committee of Bar Examiners (1989) 49 Cal.3d 933 [264 Cal.Rptr. 361]

history of felony convictions as an attorney in New Jersey for theft of client funds, failure to file tax returns, manufacture of methamphetamines and failure to make restitution

In re Menna (1995) 11 Cal.4th 975 [47 Cal.Rptr.2d 2]

omission of felony convictions in application demonstrates lack of frankness and truthfulness required by the admission process

In re Gossage (2000) 23 Cal.4th 1080 [99 Cal.Rptr.2d 130]

Admission granted

Lubetzky v. State Bar (1991) 54 Cal.3d 308 [285 Cal.Rptr. 268]

Kwasnik v. State Bar (1990) 50 Cal.3d 1061 [269 Cal.Rptr. 749]

Hall v. Committee of Bar Examiners (1979) 25 Cal.3d 730 [159 Cal.Rptr. 848]

Hallinan v. Committee of Bar Examiners (1966) 65 Cal.2d 447 [55 Cal.Rptr. 228]

Admission revoked

Goldstein v. State Bar (1989) 47 Cal.3d 937 [254 Cal.Rptr. 794]

Langert v. State Bar (1954) 43 Cal.2d 636

Spears v. State Bar (1930) 211 Cal. 183

In the Matter of Ike (Review Dept. 1996) 3 Cal. State Bar Ct. Rptr. 483

Admission to Practice, Rules Regulating

Text is located in:

Deerings Annotated California Codes, Court Rules, vol. 2, and in

West's Annotated California Codes, Court Rules, vol. 23, pt 3, p. 232

Text available through State Bar's home page:

<http://www.calbar.ca.gov>

Authority of Committee of Bar Examiners

Craig v. State Bar (9th Cir. 1998) 141 F.3d 1353

McElDowney, Jr. v. National Conference of Bar Examiners (1993) 837 F.Supp. 1062

In re Gossage (2000) 23 Cal.4th 1080 [99 Cal.Rptr.2d 130]

Greene v. Zank (1984) 158 Cal.App.3d 497, 506-513 [204 Cal.Rptr. 770]

Bar examination

disbarment for taking Bar Examination for another

In re Lamb (1990) 49 Cal.3d 239 [260 Cal.Rptr. 856]

unsuccessful bar examinee has no breach of contract action against preparer of multistate bar exam

McElDowney, Jr. v. National Conference of Bar Examiners (1993) 837 F.Supp. 1062

Business and Professions Code sections 6060-6067

oath of attorney

Business and Professions Code section 6067

Certification of Law Students [See Practical Training of Law Students.]

Committee of Bar Examiners of The State Bar of California.

[See Addresses, *supra*.]

determines that an applicant possesses the good moral character required of an officer of the court

Klarfeld v. United States (9th Cir. 1991) 944 F.2d 583

criminal defendant's rights and privileges restored upon a pardon by the governor may not operate to usurp the authority of the rules relating to admission

In re Lavine (1935) 2 Cal.2d 324

may initiate investigation of criminal charges against applicant but may not "re-try" applicant

Martin v. Committee of Bar Examiners (1983) 33 Cal.3d 717 [190 Cal.Rptr. 610, 661; P.2d 160]

Correspondence law schools

Benjamin J. Ramos dba University of Honolulu School of Law v. California Commission of Bar Examiners (1994) 857 F.Supp. 702

Misconduct prior to admission

In re Gossage (2000) 23 Cal.4th 1080 [99 Cal.Rptr.2d 130]

In the Matter of Ike (1996) 3 Cal. State Bar Ct. Rptr. 483

*In the Matter of Respondent Applicant A (Review Dept. 1995) 3 Cal. State Bar Ct. Rptr. 318

In the Matter of Lybbert (1994 Review Dept.) 2 Cal. State Bar Ct. Rptr. 297

Moral character proceedings (governed by Rules Proc. of State Bar, Rule 680 et seq.)

burden of proof

In re Gossage (2000) 23 Cal.4th 1080 [99 Cal.Rptr.2d 130]

In re Menna (1995) 11 Cal.4th 975

Lubetzky v. State Bar (1991) 54 Cal.3d 308 [285 Cal.Rptr. 268]

ADOPTION

Kwasnik v. State Bar (1990) 50 Cal.3d 1061 [269 Cal.Rptr. 749]

Hightower v. State Bar (1983) 34 Cal.3d 150

Bernstein v. Committee of Bar Examiners (1968) 69 Cal.2d 90

Hallinan v. Committee of Bar Examiners (1966) 65 Cal.2d 447 [55 Cal.Rptr. 228]

In the Matter of Applicant A (Review Dept. 1995) 3 Cal. State Bar Ct. Rptr. 318

discovery

In the Matter of Lapin (Review Dept. 1993) 2 Cal. State Bar Ct. Rptr. 279

quasi-judicial immunity of the State Bar and the Committee of Bar Examiners

Greene v. Zank (1984) 158 Cal.App.3d 497

Oath

district court lacks subject matter jurisdiction in reviewing applicant's request to take an amended oath because of religious conflicts

Craig v. State Bar of California (9th Cir. 1998) 141 F.3d 1353

Privilege to practice law

Mowrer v. Superior Court (1984) 156 Cal.App.3d 462, 467-469

Pro hac vice

Rule 983, California Rules of Court

Ninth Circuit Civ. L.R. 83.3(c)(5) [S.D. Cal.]

Leis v. Flynt (1979) 439 U.S. 438 [99 S.Ct. 698]

Paciulan v. George (9th Cir. 2000) 229 F.3d 1226

Estate of Condon (1998) 65 Cal.App.4th 1138 [76 Cal.Rptr.2d 922]

People v. Cooks (1983) 141 Cal.App.3d 224, 290 [190 Cal.Rptr. 211]

Property right

Mowrer v. Superior Court (1984) 156 Cal.App.3d 462, 467-469

Rehabilitation

In re Gossage (2000) 23 Cal.4th 1080 [99 Cal.Rptr.2d 130]

In re Boddell (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 459

Reinstatement

In re Boddell (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 459

In the Matter of Salant (Review Dept. 1999) 4 Cal. State Bar Ct. Rptr. 1

Residency requirements

Barnard v. Thorstenn (1989) 489 U.S. 546 [109 S.Ct. 1294]

Supreme Court of Virginia v. Friedman (1988) 487 U.S. 59 [108 S.Ct. 2260]

Supreme Court of New Hampshire v. Piper (1985) 470 U.S. 274

Unqualified person

lawyer furthering the application of

Rule 1-101, Rules of Professional Conduct (operative until May 26, 1989)

Rule 1-200, Rules of Professional Conduct (operative as of May 27, 1989)

ADOPTION

Family Code section 8800

Arden v. State Bar (1959) 52 Cal.2d 310 [341 P.2d 6]

Act for both parties

Civil Code section 225(m)

LA 284 (1964)

Independent adoption

Penal Code section 273

Represent

one party in, after advising the other

LA(l) 1958-6

ADVANCEMENT OF FUNDS [See Expenses. Fee.]

Rule 5-104, Rules of Professional Conduct (operative until May 26, 1989)

Rule 4-210, Rules of Professional Conduct (operative as of May 27, 1989)

Advance deposit

Securities and Exchange Commission v. Interlink Data Network of Los Angeles (9th Cir. 1996) 77 F.3d 1201

Attorney's fees from client

failure to return unearned portion

Rule 2-111(A)(3), Rules of Professional Conduct (operative until May 26, 1989)

Rule 3-700, Rules of Professional Conduct (operative as of May 27, 1989)

Finch v. State Bar (1981) 28 Cal.3d 659, 664 [170 Cal.Rptr. 629, 621 P.2d 253]

In the Matter of Phillips (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 315

Bond

attorney acting as guarantor of client's cost

CAL 1981-55

premium for absent guardian of minor

LA(l) 1954-5

By client

status as trust funds

SF 1980-1, SF 1973-14

-advance deposit

Securities and Exchange Commission v. Interlink Data Network of Los Angeles (9th Cir. 1996) 77 F.3d 1201

-advance payment retainer distinguished from true retainer

T & R Foods, Inc. v. Rose (1996) 47 Cal.App.4th Supp. 1 [56 Cal.Rptr.2d 41]

In re Montgomery Drilling Co. (E.D. Cal. 1990) 121 B.R. 32

-of costs

Rule 8-101(A), Rules of Professional Conduct (operative until May 26, 1989)

Rule 4-100, Rules of Professional Conduct (operative as of May 27, 1989)

Baranowski v. State Bar (1979) 24 Cal.3d 153, 163 [154 Cal.Rptr. 752, 593 P.2d 613]

-of legal fees to attorney

T & R Foods, Inc. v. Rose (1996) 47 Cal.App.4th Supp. 1 [56 Cal.Rptr.2d 41]

In re Montgomery Drilling Co. (E.D. Cal. 1990) 121 B.R. 32

Katz v. Workers' Compensation Appeals Board (1981) 80 Cal.3d 353, 355 [178 Cal.Rptr. 815, 636 P.2d 1153]

Baranowski v. State Bar (1979) 24 Cal.3d 153, 163-164 [154 Cal.Rptr. 752, 593 P.2d 613]

-retainer fee

Rule 3-700(D)

SF 1980-1

T & R Foods, Inc. v. Rose (1996) 47 Cal.App.4th Supp. 1 [56 Cal.Rptr.2d 41]

Securities and Exchange Commission v. Interlink Data Network of Los Angeles (9th Cir. 1996) 77 F.3d 1201

In re Montgomery Drilling Co. (E.D. Cal. 1990) 121 B.R. 32

Baranowski v. State Bar (1979) 24 Cal.3d 153, 164 fn.4 [154 Cal.Rptr. 752, 593 P.2d 613]

In the Matter of Fonte (Review Dept. 1994) 2 Cal. State Bar Ct. Rptr. 752

Costs

LA 379 (1979), LA 149 (1944), SF 1985-2

billing

In the Matter of Kroff (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 838

failure to return unused advanced costs

In the Matter of Koehler (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 615

flat periodic fee or lump sum to cover disbursements may be allowed if not unconscionable and client consents

In the Matter of Kroff (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 838

interest charged on advanced costs from payment until billing

LA 499 (1999)

ADVERTISING

of litigation

CAL 1976-38

-on contingent contract

Rule 5-104(A)(3), Rules of Professional Conduct (operative until May 26, 1989)

Rule 4-210, Rules of Professional Conduct (operative as of May 27, 1989)

Boccardo v. Commissioner of Internal Revenue (9th Cir. 1995) 56 F.3d 1016

LA 76 (1934)

-preparation for litigation

Rule 5-104(A)(3), Rules of Professional Conduct (operative until May 26, 1989)

Rule 4-210, Rules of Professional Conduct (operative as of May 27, 1989)

Discussion with client prior to employment

Rule 5-104(A), Rules of Professional Conduct (operative until May 26, 1989)

Rule 4-210, Rules of Professional Conduct (operative as of May 27, 1989)

Expenses of trial

on contingent contract

LA 76 (1934)

SF 1985-2

Explaining prohibitions of rule 5-104 to client

Rule 5-104(C), Rules of Professional Conduct (operative until May 26, 1989); Rule 4-210, Rules of Professional Conduct (operative as of May 27, 1989)

Loan

to client

-upon promise to repay

Dixon v. State Bar (1982) 32 Cal.3d 728, 733

Bradpiece v. State Bar (1974) 10 Cal.3d 742, 744 [111 Cal.Rptr. 905, 518 P.2d 337]

In the Matter of Fonte (Review Dept. 1994) 2 Cal. State Bar Ct. Rptr. 752

--in writing

Rule 5-104(A)(2), Rules of Professional Conduct (operative until May 26, 1989)

Rule 4-210, Rules of Professional Conduct (operative as of May 27, 1989)

Misappropriation of advanced fees and costs not maintained in trust account

In the Matter of Collins (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 1

Reimburse client

for damages recovered by opposing party

LA 76 (1934)

Reimbursement

from client's fund

LA 48 (1927)

Third parties

paying or agreeing to pay from funds collected or to be collected

Rule 5-104(A)(1), Rules of Professional Conduct (operative until May 26, 1989)

Rule 4-210, Rules of Professional Conduct (operative as of May 27, 1989)

ADVERTISING [See Academic degrees. Broadcasting, legal directory. Business activity. Letterhead. Political activity. Publication. Solicitation of business. Substitution. Withdrawal from employment.]

[Note: Authorities decided prior to 1977 must be reviewed to determine their continued viability in light of Bates v. State Bar of Arizona (1977) 433 U.S. 350, etc. and new rule 1-400, Rules of Professional Conduct.]

Rule 2-101, Rules of Professional Conduct (operative until May 26, 1989)

Rule 1-400, Rules of Professional Conduct (operative as of May 27, 1989)

Business and Professions Code section 6157

Advising inquirers through media seminars

-conducted for existing clients

SD 1969-8

Announcement to clients

of association of firm specializing in tax matters

LA 119 (1938)

of former firm, announcement of new partnership

-non-legal

Moss, Adams & Co. v. Shilling (1986) 179 Cal.App.3d 124 [224 Cal.Rptr. 456]

of former firm, of transfer of associate to new firm

CAL 1985-86, SD 1975-1

Assumed or misleading name

Jacoby v. State Bar (1977) 19 Cal.3d 359 [738 Cal.Rptr. 77, 562 P.2d 1326]

Johnson v. State Bar (1935) 4 Cal.2d 744, 752 [52 P.2d 928]

Attorneys not partners nor associates share office space

People v. Pastrano (1997) 52 Cal.App.4th 610 [60 Cal.Rptr.2d 620]

CAL 1997-150, CAL 1986-90

Bar membership number

pleadings

Rule 201, California Rules of Court (Superior Ct.)

Rule 501(e)(1), California Rules of Court (Muni Ct.)

Biography of lawyer, sale of book

SD 1973-4

Books relating to practice of law

LA 446 (1987)

Broadcasting

Radio or television, use of

Belli v. State Bar (1974) 10 Cal.3d 824, 832-833 [112 Cal.Rptr. 527, 519 P.2d 575]

Committee on Professional Ethics and Conduct v. Humphrey (1986) 377 N.W.2d 643

educational television

LA(l) 1970-8

program on law

CAL 1972-29, LA 318 (1970), LA 186 (1957),

LA(l) 1975-7, LA(l) 1970-12, LA(l) 1964-7

televised trial

LA 404 (1983)

Brochures, random distribution of

LA 419 (1983)

Business activity

LA 446 (1987), LA 335 (1973), LA 214 (1953), LA(l) 1976-5, LA(l) 1931-4, SD 1975-2

business, acquainting public with services offered by lawyers

In re R.M.J. (1982) 455 U.S. 191 [102 S.Ct. 929]

Bates v. State Bar of Arizona (1977) 433 U.S. 350

investment/portfolio manager

CAL 1999-154

lawyer or judge identified on

LA 286 (1965)

lawyer-officer identified on

LA 286 (1965), LA 256 (1959), LA 241 (1957)

management consulting company run by attorney

LA 446 (1987)

tax work

Libarian v. State Bar (1944) 25 Cal.2d 314, 315 [153 P.2d 739]

use of terms "accountants" and "accounting"

Moore v. California State Board of Accountancy (1990) 222 Cal.App.3d 919 [272 Cal.Rptr. 108]

Business and Professions Code section 6157

By bar association

for lawyers to serve as guardians of minors

SD 1975-8

Card, professional

LA 419 (1983)

deceased partner

-use of name of

LA 123 (1939)

degrees on

CAL 1999-154, SD 1969-5

delivered to accident victim at scene of accident

SD 2000-1

ADVERTISING

- lay employee noted on
 - Griffith v. State Bar (1953) 40 Cal.2d 470, 471 [254 P.2d 122]
 - LA 381 (1979)
- limitation of practice noted on
 - LA 168 (1948)
- published in newspaper
 - periodical
 - mail
 - LA 404 (1982)
 - random distribution
 - LA 419 (1983)
- Change in the form of practice
 - LA(l) 1971-11
- Check, profession shown on
 - LA(l) 1970-3
- Class action
 - communication with potential class members prior to certification
 - Gulf Oil Company v. Bernard (1981) 452 U.S. 89 [101 S.Ct. 2193]
 - In re McKesson HBOC, Inc. Securities Litigation (N.D. Cal. 2001) 126 F.Supp.2d 1239
 - Howard Gunty Profit Sharing Plan, et al. v. Superior Court (Greenwood) (2001) 88 Cal.App.4th 572 [105 Cal.Rptr.2d 896]
 - Atari, Inc. v. Superior Court (1985) 166 Cal.App.3d 867 [212 Cal.Rptr. 773]
- Client's
 - counsel identified on
 - LA 286 (1965), LA 241 (1957), LA(l) 1971-1, SD 1973-5
- Communication and solicitation distinguished
 - SD 2000-1
- Communications concerning the availability for professional employment
 - LA 494 (1998)
 - SD 2000-1
- Controversial cause, espousal of
 - LA(l) 1970-7
- Correspondent firm
 - LA 430 (1984)
- Direct mail solicitation
 - Florida Bar v. Went For It, Inc. (1995) 515 U.S. 618 [115 S.Ct. 2371]
 - Shapiro v. Kentucky Bar Association (1988) 486 U.S. 466 [108 S.Ct. 1916]
 - CAL 1995-142, CAL 1988-105
 - SD 1992-3
 - OR 93-001
- Dissolution of law firm
 - CAL 1985-86
- "Do-it-yourself" clinics
 - Howard v. Superior Court (1975) 52 Cal.App.3d 722
- Donation of legal services as prize
 - LA 434 (1984)
- Donation of legal services contingent upon bequest to certain organization
 - CAL 1982-65
- Dramatization
 - Rule 1-400, std. 13, California Rules of Professional Conduct (operative May 11, 1994)
- Dual practice/occupation
 - CAL 1982-69
 - LA 446 (1987), LA 413 (1983), LA 384 (1980), LA 351 (1926), LA 349 (1925)
- Educational activity
 - CAL 1972-29
 - LA 221 (1954)
 - SD 1974-21
- Electronic media
 - CAL 2001-155
 - SD 1977-4
- Employment offered
 - SD 1975-8, SD 1975-5
- Employment wanted
 - LA 319 (1970), LA(l) 1972-13
 - corporate counsel
 - LA 319 (1970)
- Endorsement [See Political activity.]
 - Rule 1-400, std. 2, Rules of Professional Conduct (operative September 14, 1992)
 - commercial product
 - Valentine v. Chrestensen (1942) 316 U.S. 52
 - constitutional analysis v. State Bar policy
 - Belli v. State Bar (1974) 10 Cal.3d 824, 840 [112 Cal.Rptr. 527]
- Facsimile transmissions
 - Business & Professions Code section 17538.4
- Fees
 - Business and Professions Code section 6157
 - In re R.M.J. (1982) 455 U.S. 191 [102 S.Ct. 929]
 - Bates v. State Bar of Arizona (1977) 433 U.S. 350
 - free service
 - LA(l) 1979-3
 - low rates
 - LA(l) 1979-3
 - "no fees if no recovery"
 - Rule 1-400, std. 14, California Rules of Professional Conduct (operative May 11, 1994)
 - OR 93-001
 - routine
 - CAL 1982-67
- Fictitious name
 - Rule 1-400, stds. 6, 7, and 9, California Rules of Professional Conduct (operative September 14, 1992)
 - Jacoby v. State Bar (1977) 19 Cal.3d 359, 364 [138 Cal.Rptr. 7]
 - CAL 1982-66
 - "Of Counsel" non-partner in name
 - LA 421 (1983)
- Firm name
 - CAL 1997-150, CAL 1986-90
 - LA 413 (1983), LA 385, LA 325 (1972)
 - SD 1985-1
 - former partner's name
 - CAL 1986-90
 - of law office comprised of separate sole practitioners
 - CAL 1986-90
 - SD 1985-1
- First Amendment protections
 - 44 Liquormart Inc. v. Rhode Island Liquor Stores Assn. (1996) 517 U.S. 484 [116 S.Ct. 1495]
 - Florida Bar v. Went For It, Inc. (1995) 515 U.S. 618 [115 S.Ct. 2371]
 - Ibanez v. Florida Dept. of Business and Prof. Regulation, Bd. of Accountancy (1994) 512 U.S. 136 [114 S.Ct. 2084]
 - Edenfield v. Fane (1993) 507 U.S. 761 [113 S.Ct. 1792]
 - In re R.M.J. (1982) 455 U.S. 191 [102 S.Ct. 929]
 - Central Hudson Gas & Electric v. Public Service Comm. of New York (1980) 447 U.S. 557 [100 S.Ct. 2343]
 - Bates v. State Bar of Arizona (1977) 433 U.S. 350
 - Virginia Bd. Of Pharmacy v. Virginia Citizens Consumer Council (1976) 425 U.S. 748 [96 S.Ct. 1817]
 - Rubin v. Green (1993) 4 Cal.4th 1187 [17 Cal.Rptr.2d 828]
 - Belli v. State Bar (1974) 10 Cal.3d 824, 833 [112 Cal.Rptr. 527]
 - LA 494 (1998), LA 474
- Foreign attorney
 - LA 156 (1945)
- General guidelines
 - SD 1977-4
 - mail
 - SD 1983-5
 - target, direct mail solicitation
 - Florida Bar v. Went For It, Inc. (1995) 515 U.S. 618 [115 S.Ct. 2371]
 - Shapiro v. Kentucky Bar Association (1988) 486 U.S. 466 [108 S.Ct. 1916]
 - CAL 1995-142, CAL 1988-105, SD 1992-3, OR 93-001

ADVERTISING

- Group legal services
 - LA(l) 1979-3, LA(l) 1978-2, SD 1978-2, SD 1976-11
- Guardians, for lawyers to serve as
 - SD 1975-8
- In-person delivery of business card
 - SD 2000-1
- Insurance company
 - in-house law division
 - CAL 1987-91
- Internet
 - CAL 2001-155
- Laudatory reference
 - journal advertisement
 - LA 25 (1923)
 - newspaper
 - series of articles on tax problems written by attorney
 - LA 87 (1935)
 - statements
 - Bushman v. State Bar (1974) 11 Cal.3d 558, 568
 - Belli v. State Bar (1974) 10 Cal.3d 824, 837 [112 Cal.Rptr. 527]
 - Johnson v. State Bar (1935) 4 Cal.2d 744, 752
 - CAL 1972-29
- Law
 - name of partnership
 - LA 310 (1969)
- Law practice
 - deceased partner
 - use of name of
 - LA 123 (1939), SD 1969-4
 - former partner
 - use of name of
 - CAL 1986-90
 - withdrawal of attorney from firm
 - CAL 1985-86
- Lawyer referral service
 - Emmons, Williams, Mires & Leech v. State Bar (1970) 6 Cal.App.3d 565
- Lawyers to serve as guardians of minors
 - SD 1975-8
- Lectures
 - LA 286 (1965), LA(l) 1964-7
 - announcement
 - Belli v. State Bar (1974) 10 Cal.3d 824, 835 [112 Cal.Rptr. 527, 519 P.2d 575]
 - degrees listed on
 - LA 349 (1925)
 - cable television
 - CAL 1972-29
 - law to non-lawyers
 - CAL 1967-12
- Legal aid agency
 - SD 1974-9
- Legal document [See Publication.]
 - annual report of business
 - LA(l) 1971-1
 - business prospectus
 - CAL 1969-19
 - LA(l) 1971-1
 - stockholder's report
 - LA(l) 1971-1
- Legal services connected with senior citizen membership
 - SD 1976-11
- Legal work for lawyers
 - LA 65 (1931)
- Legal work from bar
 - LA 167 (1948)
- Letter
 - In re Primus (1977) 436 U.S. 412, 422
 - Belli v. State Bar (1974) 10 Cal.3d 824, 838 [112 Cal.Rptr. 527, 519 P.2d 575]
 - Johnson v. State Bar (1935) 4 Cal.2d 746, 747
 - CAL 1982-67, CAL 1981-61, CAL 1980-54
 - LA 404 (1982), SD 1983-5, SF 1979-1
- advising creditors of claims when creditors are unaware of existence
 - offering to represent on percentage basis
 - LA 122 (1939)
- honorific "ESQ" appended to a signature creates an impression that the person signing is presently able and entitled to practice law
 - In the Matter of Wyrick (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 83
 - CAL 1999-154
- other attorneys
 - describing qualifications
 - CAL 1981-61
 - offering to represent in other jurisdictions
 - CAL 1981-61
 - requesting referrals
 - SF 1970-2
- target, direct mail solicitation to particular potential clients allowed
 - Florida Bar v. Went For It, Inc. (1995) 515 U.S. 618 [115 S.Ct. 2371]
 - Shapiro v. Kentucky Bar Association (1988) 486 U.S. 466 [108 S.Ct. 1916]
 - CAL 1995-142, CAL 1988-105, OR 93-001, SD 1992-3
- Letterhead
 - affiliation with an out-of-state law firm
 - LA 392 (1983)
 - affiliation with "correspondent firm" in another county
 - LA 430 (1984)
 - attorney
 - use of by non-lawyer
 - LA 16 (1922)
 - corporation
 - name of attorney on
 - LA 16 (1922)
 - deceased partner and/or former partner
 - use of name of
 - CAL 1993-129, CAL 1986-90
 - LA 123 (1939)
 - distinguish partners from non-partners
 - SF 1973-18
 - "Of Counsel" on
 - People ex rel. Dept. of Corporations v. Speedee Oil Change Systems (1999) 20 Cal.4th 1135 [86 Cal.Rptr.2d 816]
 - CAL 1993-129
 - LA 421 (1983)
 - other jurisdictions
 - address of offices in
 - SD 1975-16
- Mail [See Solicitation.]
 - CAL 1983-75
 - LA 404 (1983)
 - general guidelines
 - SD 1983-5
 - lawyers
 - CAL 1981-61
 - other attorneys
 - requesting referrals
 - CAL 1981-61
 - owners
 - SF 1979-1
 - target, direct mail solicitation to particular potential clients allowed
 - In re Morse (1995) 11 Cal.4th 184 [44 Cal.Rptr.2d 620]
 - Florida Bar v. Went For It, Inc. (1995) 515 U.S. 618 [115 S.Ct. 2371]
 - People v. Morse (1993) 21 Cal.App.4th 259 [25 Cal.Rptr.2d 816]
 - Shapiro v. Kentucky Bar Association (1988) 486 U.S. 466 [108 S.Ct. 1916]
 - CAL 1995-142, CAL 1988-105, SD 1992-3
 - OR 93-001
 - to non-clients
 - SD 1983-5

ADVERTISING

- to prospective clients
 - announcement of law office opening
 - LA 128 (1940)
 - mass mailing to income property owners
 - SF 1979-1
- to realtors by mass mailing
 - CAL 1983-75
- Mail announcement [See Advertising, announcement. Law office, opening. Partnership.]
 - clients of former partner or employer
 - CAL 1985-86, LA 281 (1963)
 - mailing of bulletins or briefs discussing laws or decisions
 - LA 494 (1998)
 - to members of the bar concerning availability for employment
 - LA(l) 1970-4, SF 1970-2
- Management consulting company run by attorney
 - LA 446 (1987)
- Military service
 - exit from
 - LA 161 (1946)
- Misleading
 - Zauderer v. Office of Disciplinary Counsel of the Supreme Court of Ohio (1985) 471 U.S. 626 [105 S.Ct. 2265]
 - In re R.M.J. (1982) 455 U.S. 191 [102 S.Ct. 929]
 - Bates v. State Bar of Arizona (1977) 433 U.S. 350, 381
 - In re Morse (1995) 11 Cal.4th 184 [44 Cal.Rptr.2d 620]
 - People v. Morse (1993) 21 Cal.App.4th 259 [25 Cal.Rptr.2d 816]
 - CAL 1997-148
 - attorneys not partners nor associates share office space
 - People v. Pastrano (1997) 52 Cal.App.4th 610 [60 Cal.Rptr.2d 620]
 - CAL 1997-150, CAL 1986-90
 - class action
 - In re McKesson HBOC, Inc. Securities Litigation (N.D. Cal. 2001) 126 F.Supp.2d 1239
 - fees, costs
 - Business and Professions Code section 6157
 - Leoni v. State Bar (1985) 39 Cal.3d 609 [217 Cal.Rptr. 423]
- Newsletter
 - charitable organization
 - offering free will service
 - LA 428 (1984)
- Newspaper
 - Zauderer v. Office of Disciplinary Counsel of the Supreme Court of Ohio (1985) 471 U.S. 626 [105 S.Ct. 2265]
 - In re R.M.J. (1982) 455 U.S. 191 [102 S.Ct. 929]
 - Bates v. State Bar of Arizona (1977) 433 U.S. 350, 354
 - LA 8 (1917)
 - article
 - Jacoby v. State Bar (1977) 19 Cal.3d 359, 364 [138 Cal.Rptr. 7]
 - articles on tax problems, series of
 - LA 87 (1935)
 - legal column
 - LA 354 (1976)
 - misleading to the public
 - Standing Com. on Dis. of United States v. Ross (9th Cir. 1984) 735 F.2d 1168, 1173
 - specialization – approval of
 - Standing Com. on Dis. of United States v. Ross (9th Cir. 1984) 735 F.2d 1168, 1172-1173
- Non-legal services
 - CAL 1999-154
- "Of Counsel"
 - People ex rel. Dept. of Corporations v. Speedee Oil Change Systems (1999) 20 Cal.4th 1135 [86 Cal.Rptr.2d 816]
 - CAL 1993-129
 - LA 421 (1983)
 - other jurisdictions
 - address of offices in
 - SD 1975-16
- Pamphlets relating to the practice of law
 - LA 419 (1983)
 - distribution to clients
 - CAL 1967-10
- Partnership
 - changes in personnel
 - CAL 1986-90, CAL 1985-86, LA 247 (1957)
 - formation of
 - LA 331 (1973)
- Potential members of class action
 - prior to class certification
 - Gulf Oil Company v. Bernard (1981) 452 U.S. 89 [101 S.Ct. 2193]
 - In re McKesson HBOC, Inc. Securities Litigation (N.D. Cal. 2001) 126 F.Supp.2d 1239
 - Howard Gunty Profit Sharing Plan, et al. v. Superior Court (Greenwood) (2001) 88 Cal.App.4th 572 [105 Cal.Rptr.2d 896]
 - Atari, Inc. v. Superior Court (1985) 166 Cal.App.3d 867 [212 Cal.Rptr. 773]
- Presentation
 - use of a living trust marketer to solicit clients for the attorney
 - CAL 1997-148
 - use of a medical liaison to give a presentation containing promotional messages to a group of doctors who might recommend patients to the lawyer
 - CAL 1995-143
- Prohibited forms
 - 44 Liquormart Inc. v. Rhode Island Liquor Stores Assn. (1996) 517 U.S. 484 [116 S.Ct. 1495]
 - Florida Bar v. Went For It, Inc. (1995) 515 U.S. 618 [115 S.Ct. 2371]
 - Ibanez v. Florida Dept. of Business and Prof. Regulation, Bd. of Accountancy (1994) 512 U.S. 136 [114 S.Ct. 2084]
 - Edenfield v. Fane (1993) 507 U.S. 761 [113 S.Ct. 1792]
 - In re R.M.J. (1982) 455 U.S. 191 [102 S.Ct. 929]
 - Central Hudson Gas & Electric Corp. v. Public Service Comm. of New York (1980) 447 U.S. 557 [100 S.Ct. 2343]
 - Bates v. State Bar of Arizona (1977) 433 U.S. 350, 383
 - Virginia Bd. Of Pharmacy v. Virginia Citizens Consumer Council (1976) 425 U.S. 748 [96 S.Ct. 1817]
 - LA 494 (1998)
 - SD 2000-1
 - management consulting firm incorporated by attorney to act as agent in solicitation of legal business
 - LA 446 (1987)
- Publication [See Advertising, newspaper; journal.]
 - books relating to practice of law
 - LA 446 (1987)
 - charitable or religious body or organization
 - LA 256 (1959)
 - directory
 - biographical
 - LA(l) 1947-4
 - organization
 - fraternal
 - LA 184 (1951)
 - trade, business, etc.
 - LA 345 (1975)
 - distribution of
 - LA 244 (1957), LA(l) 1948-5, LA(l) 1948-4
 - pamphlets
 - Palmquist v. State Bar (1954) 43 Cal.2d 428
 - published by State Bar
 - CAL 1967-10
 - experiences of lawyer
 - as public interest story
 - SD 1975-3
 - journal
 - legal
 - LA 247 (1957), LA 156 (1945)
 - trade
 - LA 158 (1945), LA(l) 1955-4

ADVERTISING

- newsletter
 - charitable organization
 - offering free will service
 - LA 428 (1984)
- newspaper
 - LA 45 (1927)
 - legal
 - LA(I) 1976-8
 - trade and business
 - LA(I) 1955-4
- notice of specialized service
 - LA 124 (1939)
- pamphlet
 - attorney as author of
 - LA 307 (1968)
- promotion of
 - LA 349 (1975), SD 1973-4
- prospectus
 - name of counsel giving opinion re tax benefits required by Corporations Commission
 - CAL 1969-19
- quality
 - experience
 - LA 319 (1970)
 - expertise
 - LA 319 (1970)
 - inclusion in list of "approved" practitioners
 - LA(I) 1964-3
 - self-laudatory advertisement
 - SD 1977-4
- Qualifications
 - CAL 1982-67, CAL 1981-61
- Radio or television
 - Belli v. State Bar (1974) 10 Cal.3d 824, 835
 - Committee on Professional Ethics and Conduct v. Humphrey (1986) 377 N.W.2d 643
 - participation by attorney in radio program
 - answering questions on law
 - LA 299 (1966)
 - identification as lawyer
 - LA 299 (1966)
- Random solicitation
 - LA 419 (1983)
- Return to practice [See Inactive lawyers.]
 - LA 161 (1946), LA 156 (1945)
- Routine services, fees
 - In re R.M.J. (1982) 455 U.S. 191 [102 S.Ct. 929]
 - Bates v. State Bar of Arizona (1977) 433 U.S. 350
 - CAL 1982-67
- Seminars
 - LA 494 (1998)
- Share office space with attorneys
 - People v. Pastrano (1997) 52 Cal.App.4th 610 [60 Cal.Rptr.2d 620]
 - CAL 1997-150, CAL 1986-90, SD 1985-1
- Sign
 - Jacoby v. State Bar (1977) 19 Cal.3d 359 [138 Cal.Rptr. 77, 562 P.2d 1326]
 - branch office
 - LA(I) 1973-2
 - location
 - where there is no office
 - LA 134 (1940)
 - shared with business
 - LA 198 (1952)
 - use of words "legal clinic" instead of "law office" deemed not misleading
 - Jacoby v. State Bar (1977) 19 Cal.3d 359, 366
 - LA 145 (1943)
- Specialization
 - Rule 1-400(E), standard no. 11, Rules of Professional Conduct (operative until May 31, 1997)
 - Rule 1-400(D)(6), Rules of Professional Conduct (operative June 1, 1997)
- absolute prohibition may violate constitutional rights
 - Peel v. Attorney Reg. & Disciplinary Commission of Illinois (1990) 496 U.S. 91 [110 S.Ct. 2281]
- application
 - In the Matter of Mudge (Review Dept. 1993) 2 Cal. State Bar Ct. Rptr. 536
 - LA(I) 1972-13
- bar
 - CAL 1981-61, LA 156 (1945), LA(I) 1970-4
 - disclaimer explaining that the advertiser is not licensed may permit use of terms (i.e., "accountants") which are normally used only by state licensees
 - Moore v. California State Board of Accountancy (1992) 2 Cal.4th 999 [9 Cal.Rptr.2d 12]
 - notice to profession
 - to apprise of specialized services
 - LA 110 (1937)
 - public
 - LA 168 (1948), LA 45 (1927)
- Target mail solicitation
 - Shapiro v. Kentucky Bar Association (1988) 486 U.S. 466 [108 S.Ct. 1916]
 - In re Morse (1995) 11 Cal.4th 184 [44 Cal.Rptr.2d 620]
 - People v. Morse (1993) 21 Cal.App.4th 259 [25 Cal.Rptr.2d 816]
 - statute that places conditions on use of public access of names and addresses of individuals arrested by police is not facially invalid
 - Los Angeles Police Department v. United Reporting Publishing Corp. (1999) 528 U.S. 32 [120 S.Ct. 483]
 - CAL 1995-142, CAL 1988-105
 - SD 1992-3, OR 93-001
- Telephone
 - In the Matter of Kroff (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 838
 - CAL 1988-105
 - offer to conduct seminars
 - LA 494 (1998)
- Telephone directory
 - listing in
 - 79 Ops. Cal. Atty. Gen. 258 (11/21/96; No. 96-309)
 - another city
 - CAL 1967-7, SD 1975-9
 - more than one line
 - LA(I) 1948-6
 - multiple listings
 - LA(I) 1963-7, LA(I) 1956-3
 - under spelling variations
 - LA(I) 1963-7
 - name changed
 - LA(I) 1956-3
 - out-of-town
 - CAL 1967-7
 - partnership
 - members or associates listed individually
 - SD 1975-9
 - patent agent
 - employed by law firm
 - CAL 1970-20
 - patent attorney
 - CAL 1970-20
 - seminars conducted for existing clients
 - SD 1969-8
 - Workers' Compensation
 - Labor Code sections 5430-5434
 - 79 Ops. Cal. Atty. Gen. 258 (11/21/96; No. 96-309)
 - Tillman v. Miller (N.D. GA 1995) 917 F.Supp. 799
- Testimonial
 - Rule 1-400, std. 2, California Rules of Professional Conduct (operative September 14, 1992)
- Trade name
 - practice law under by attorney or law firm
 - Jacoby v. State Bar (1977) 19 Cal.3d 359, 366 [138 Cal.Rptr. 77, 562 P.2d 1326]
 - CAL 1982-66, LA 413 (1983)

ADVISING INQUIRERS THROUGH MEDIA

Workers' Compensation
Labor Code sections 5430-5434
79 Ops. Cal. Atty. Gen. 258 (11/21/96; No. 96-309)
Tillman v. Miller (N.D. GA 1995) 917 F.Supp 799

ADVISING INQUIRERS THROUGH MEDIA

Rule 2-105, Rules of Professional Conduct [repealed effective February 20, 1985; former rule 18]

Generally

LA 191 (1952), LA 181 (1951), LA 148 (1944), LA 8 (1920)

Newspaper

tax problems

-series of articles on, authored by attorney
LA 87 (1935)

Radio show

attorney answers legal questions submitted by listeners
LA 299 (1966)

attorney participating in

-audience may talk with attorney over airwaves
CAL 1969-17

Tax problems

series of articles on, in newspaper
LA 87 (1935)

ADVISING VIOLATION OF LAW

Rule 7-101, Rules of Professional Conduct [former rule 11] (operative until May 26, 1989)

Rule 3-210, Rules of Professional Conduct (operative as of May 27, 1989)

Goldman v. State Bar (1977) 20 Cal.3d 130, 134, 138 [141 Cal.Rptr. 447, 570 P.2d 463]

Snyder v. State Bar (1976) 18 Cal.3d 286, 288 [133 Cal.Rptr. 864, 555 P.2d 1104]

Paonessa v. State Bar (1954) 43 Cal.2d 222, 223-227 [272 P.2d 510]

Townsend v. State Bar (1948) 32 Cal.2d 592, 593-598

Waterman v. State Bar (1937) 8 Cal.2d 17 [63 P.2d 1133]

In re Jones (1929) 208 Cal. 240, 241-243 [280 P. 964]

Hawk v. Superior Court (1974) 42 Cal.App.3d 108 [116 Cal.Rptr. 713] cert. den. 421 U.S. 1012

Hoffman v. Municipal Court (1970) 3 Cal.App.3d 621, 628-629 [83 Cal.Rptr. 747]

[See 40 A.L.R. 3d 175n, 19 A.L.R. 3d 403s, 96 A.L.R. 2d 739, 71 A.L.R. 2d 875, 114 A.L.R. 175, 50 S.C.I.L.Rev. 817, 7 Sw.R. 619.]
CAL 1996-146, SD 1993-1

Judge solicited the commission of perjury in a federal investigation

In the Matter of Jenkins (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 157

Negotiation of private agreement not to prosecute a crime
CAL 1986-89

Negotiation of private agreement to compromise civil claim arising from crime

CAL 1986-89

ALCOHOL ABUSE

Alcohol and drug addiction brought under control

In the Matter of Terrones (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 289

For confidential assistance, contact:

Center for Human Resources/West
Telephone: (415) 502-7290

For information about program, contact:

Office of Professional Competence, Planning & Development
Telephone: (415) 538-2107

AMERICAN BAR ASSOCIATION MODEL CODE OF PROFESSIONAL RESPONSIBILITY

Can be of assistance where California has not spoken

San Gabriel Basin Water Quality Authority v. Aerojet-General Corp. (C.D. Cal. 2000) 105 F.Supp.2d 1095

Elan Transdermal v. Cygnus Therapeutic Systems (N.D. Cal.1992) 809 F.Supp. 1383

Paul E. Iacono Structural Engineering, Inc. v. Humphrey (9th Cir. 1983) 722 F.2d 435, 438

Adams v. Aerojet-General Corp. (2001) 86 Cal.App.4th 1324 [104 Cal.Rptr.2d 116]

Altschul v. Sayble (1978) 83 Cal.App.3d 153 [174 Cal.Rptr. 716]

AMERICAN BAR ASSOCIATION MODEL RULES OF PROFESSIONAL CONDUCT

Can be of assistance where California has not spoken

Dieter v. Regents of the University of California (E.D. Cal. 1997) 963 F.Supp. 908

Elan Transdermal v. Cygnus Therapeutic Systems (N.D. Cal. 1992) 809 F.Supp. 1383

People v. Donaldson (2001) 93 Cal.App.4th 916 [113 Cal.Rptr.2d 548]

State Compensation Insurance Fund v. WPS, Inc. (1999) 70 Cal.App.4th 644 [82 Cal.Rptr.2d 799]

Altschul v. Sayble (1978) 83 Cal.App.3d 153 [174 Cal.Rptr. 716]

CAL 1983-71, LA 504 (2000), OR 99-002, OR 95-002, SF 1999-2

Inadvertent disclosure of confidential information

Gomez v. Vernon (9th Cir. (Idaho) 2001) 255 F.3d 1118 [50 Fed. R. Serv.3d (Callaghan) 436]

State Compensation Insurance Fund v. WPS, Inc. (1999) 70 Cal.App.4th 644 [82 Cal.Rptr.2d 799]

Not binding in California

Elan Transdermal v. Cygnus Therapeutic Systems (N.D. Cal. 1992) 809 F.Supp. 1383

General Dynamics Corp. v. Superior Court (1994) 7 Cal.4th 1164, 1190, fn. 6

State Compensation Insurance Fund v. WPS, Inc. (1999) 70 Cal.App.4th 644 [82 Cal.Rptr.2d 799]

Cho v. Superior Court (1995) 39 Cal.App.4th 113, 121, fn. 2

People v. Ballard (1980) 104 Cal.App.3d 757 [164 Cal.Rptr. 81]

CAL 1998-152, CAL 1983-71, LA 504 (2000), OR 99-002, OR 95-002, SD 1989-4, (1983), 50 USLW 1

APPOINTMENT OF ATTORNEY BY COURT [See Attorney-client relationship. Contract for employment.]

Business and Professions Code section 6068(h)

California Rules of Court, Appendix Division 1, section

Bradshaw v. U.S. Dist. Court (9th Cir. 1984) 742 F.2d 515

Assigned counsel

contract for private employment

SD 1969-9

duty to maintain inviolate client's confidence and secrets

LA 504 (2000)

duty with respect to costs and expenses

LA 379 (1979)

Attorney-client relationship

In re Jay R. (1983) 150 Cal.App.3d 251, 262

Civil proceedings

Iraheta v. Superior Court (1999) 70 Cal.App.4th 1500 [83 Cal.Rptr.2d 471]

Yarbrough v. Superior Court (1985) 39 Cal.3d 197 [216 Cal.Rptr. 425]

Payne v. Superior Court (1976) 17 Cal.3d 908 [132 Cal.Rptr. 405]

Cunningham v. Superior Court (1986) 177 Cal.App.3d 336

Mowrer v. Superior Court (1984) 156 Cal.App.3d 462

Hunt v. Hackett (1973) 36 Cal.App.3d 134

Coercive appointment

Bradshaw v. U.S. Dist. Court (9th Cir. 1984) 742 F.2d 515, 517-518

Conservatorship proceedings

attorney-initiated conservatorship proceedings, absent client consent

CAL 1989-112, OR 95-002

Court appointed attorney for bankruptcy trustee may not be removed by spouse of bankrupt party

Matter of Fonoiller (9th Cir. 1983) 707 F.2d 441, 442

Criminal and quasi-criminal proceedings

Business and Professions Code sections 6068(h)

Yarbrough v. Superior Court (1985) 39 Cal.3d 197 [216 Cal.Rptr. 425]

CAL 1970-23

abandonment by appellate counsel was good cause for substantial delay in filing of habeas petition

In re Sanders (1999) 21 Cal.4th 697 [87 Cal.Rptr.2d 899]

ARBITRATION

court's refusal to appoint indigent defendant's chosen attorney at his retrial is not abuse of discretion

People v. Robinson (1997) 53 Cal.App.4th 270 [61 Cal.Rptr.2d 587]

defense attorney

People v. Trujillo (1984) 154 Cal.App.3d 1077, 1086-1088 freeing minor from parental custody

In re Rodriguez (1973) 34 Cal.App.3d 510 [110 Cal.Rptr. 56]

indigent defendants entitled to effective pro bono assistance

Cunningham v. Superior Court (1986) 177 Cal.App.3d 336

Mowrer v. Superior Court (1984) 156 Cal.App.3d 462, 472-473

narcotics commitment hearing

*People v. Moore (1968) 69 Cal.2d 674 [72 Cal.Rptr. 800]

public defender may be appointed standby or advisory counsel for defendant who chooses to represent himself

Brookner v. Superior Court (1998) 64 Cal.App.4th 1390

Defendant's ability to afford private counsel

United States v. Condo (9th Cir. 1984) 741 F.2d 238

Dependency proceedings

In re Jesse C. (1999) 71 Cal.App.4th 1481 [84 Cal.Rptr.2d 609]

attorney appointed for a dependent minor under Rule of Court 1438 may also function as the independent guardian ad litem

In re Charles T. (2002) 102 Cal.App.4th 869 [125 Cal.Rptr.2d 868]

representation of a minor client

In re Charles T. (2002) 102 Cal.App.4th 869 [125 Cal.Rptr.2d 868]

LA 504 (2000)

Fees

Amarawansa v. Superior Court (1996) 49 Cal.App.4th 1251 [57 Cal.Rptr.2d 249]

Gilbert v. Superior Court (1985) 169 Cal.App.3d 148 [215 Cal.Rptr. 305]

Good cause to relieve counsel appointed for a minor

In re Jesse C. (1999) 71 Cal.App.4th 1481 [84 Cal.Rptr.2d 609]

No absolute Sixth Amendment right to both pro bono counsel and assistance of counsel

United States v. Condo (9th Cir. 1984) 741 F.2d 238

Preservation of constitutional rights

United States v. Condo (9th Cir. 1984) 741 F.2d 238

Pro bono publico service

Business and Professions Code sections 6068(h), 6103

Bradshaw v. U.S. Dist. Court (9th Cir. 1984) 742 F.2d 515, 518-519

Yarbrough v. Superior Court (1985) 39 Cal.3d 197 [216 Cal.Rptr. 425]

Payne v. Superior Court (1976) 17 Cal.3d 908, 924

Lamont v. Solano County (1874) 49 Cal. 158, 159

Rowe v. Yuba County (1860) 17 Cal. 60, 63

Waltz v. Zumwalt (1985) 167 Cal.App.3d 835, 837 [213 Cal.Rptr. 529]

County of Los Angeles v. Superior Court (1980) 102 Cal.App.3d 926, 931 [162 Cal.Rptr. 636]

County of Fresno v. Superior Court (1978) 82 Cal.App.3d 191, 194-196 [146 Cal.Rptr. 880]

Protect interests of party

Estate of Bodger (1954) 128 Cal.App.2d 710 [276 P.2d 83]

ARBITRATION

Agreement with client to arbitrate claims brought by client

Mayhew v. Benninghoff, III (1997) 53 Cal.App.4th 1365 [62 Cal.Rptr.2d 27]

Lawrence v. Walzer & Gabrielson (1989) 207 Cal.App.3d 1501 [256 Cal.Rptr. 6]

CAL 1977-47

malpractice claims

CAL 1989-116, LA 489 (1997)

Arbitration provisions of retainer agreement are enforceable and applicable to legal malpractice action

Powers v. Dickson, Carlson & Campillo (1997) 54 Cal.App.4th 1102 [63 Cal.Rptr.2d 261]

Arbitrator

Code of Civil Procedure section 1141.18

appointment of law office associate as

-by attorney representing claimant in same proceeding
LA 302 (1968)

arbitrator's decision not subject to judicial interference standard

Delaney v. Dahl (2002) 99 Cal.App.4th 647 [121 Cal.Rptr.2d 663]

Kahn v. Chetcuti (2002) 101 Cal.App.4th 61 [123 Cal.Rptr.2d 606]

Creative Plastering, Inc. v. Hedley Builders (1993) 19 Cal.App.4th 1662 [24 Cal.Rptr.2d 216]

LA 415 (1983)

Attachment prior to

Loeb & Loeb v. Beverly Glen Music, Inc. (1985) 166 Cal.App.3d 110 [212 Cal.Rptr. 830]

Attorney as arbitrator

Rule 1-710, Rules of Professional Conduct (effective March 18, 1999)

LA 415 (1983)

arbitrator is client of law firm trying case before arbitrator

LA 415 (1983)

while representing client on other matters

CAL 1984-80

Attorney fees

arbitration award may be modified where arbitrator inadvertently failed to rule on prevailing party's claim to attorney's fees and costs

Century City Medical Plaza v. Sperling, Issacs & Eisenberg (2000) 86 Cal.App.4th 865 [103 Cal.Rptr.2d 605]

arbitrator's denial of attorney's fees was not subject to judicial review where issue of fees was within scope of matters submitted for binding arbitration

Moshonov v. Walsh (2000) 22 Cal.4th 771 [94 Cal.Rptr.2d 597]

Moore v. First Bank of San Luis Obispo (2000) 22 Cal.4th 782 [94 Cal.Rptr.2d 603]

Harris v. Sandro (2002) 96 Cal.App.4th 1310 [117 Cal.Rptr.2d 910]

arbitrator's determination of prevailing party is not subject to appellate review

Pierotti, et al. v. Torian (2000) 81 Cal.App.4th 17 [96 Cal.Rptr.2d 553]

authority of arbitrator to award fees under the terms of the controlling arbitration

Kahn v. Chetcuti (2002) 101 Cal.App.4th 61 [123 Cal.Rptr.2d 606]

binding at county bar level

Reisman v. Shahverdian (1984) 153 Cal.App.3d 1074, 1088

in other states

Vorys, Sater, Seymour & Pease v. Ryan (1984) 153 Cal.App.3d 91, 95

notice of client's right to arbitrate a dispute must be given after dispute has arisen

Huang v. Chen (1998) 66 Cal.App.4th 1230 [78 Cal.Rptr.2d 550]

OR 99-002

trial court procedures

Civil Code of Procedure section 1285 et seq.

trial de novo

Shiver, McGrane & Martin v. Littell (1990) 217 Cal.App.3d 1041

Pickens v. Weaver (1985) 173 Cal.App.3d 550 [219 Cal.Rptr. 91]

Attorney's associate as arbitrator in case in which attorney represents client

LA 302 (1968)

ASSIGNED COUNSEL

Authority of arbitration

Pacific Motor Trucking v. Automotive Machinists (9th Cir. 1983) 702 F.2d 176
Pierotti, et al. v. Torian (2000) 81 Cal.App.4th 17 [96 Cal.Rptr.2d 553]
California Faculty Association v. Superior Court (1998) 63 Cal.App.4th 935 [75 Cal.Rptr.2d 1]
Caro v. Smith (1997) 59 Cal.App.4th 725 [69 Cal.Rptr.2d 306]
Moncharsh v. Heily & Blase (1997) 3 Cal.4th 1 [10 Cal.Rptr.2d 183]

panel's denial of a motion to disqualify lawyers for an alleged conflict of interest may not support party's subsequent assertion of claim preclusion of res judicata

Benasra v. Mitchell Silberberg & Knupp (2002) 96 Cal.App.4th 96 [116 Cal.Rptr.2d 644]

Authority of attorney to unilaterally bind client to binding arbitration with opposing party

Blanton v. Womancare (1985) 38 Cal.3d 396 [212 Cal.Rptr. 151]

CPI Builders, Inc. v. IMPCO Technologies, Inc. (2001) 94 Cal.App.4th 1167 [114 Cal.Rptr.2d 851]

Binding clause in retainer agreement

Delaney v. Dahl (2002) 99 Cal.App.4th 647 [121 Cal.Rptr.2d 663]

Law Offices of Ian Herzog v. Law Offices of Joseph M. Fredrics (1998) 61 Cal.App.4th 672 [71 Cal.Rptr.2d 771]

Powers v. Dickson, Carlson & Campillo (1997) 54 Cal. App.4th 1102 [63 Cal.Rptr.2d 261]

Mayhew v. Benninghoff, III (1997) 53 Cal.App.4th 1365 [62 Cal.Rptr.2d 27]

Lawrence v. Walzer & Gabrielson (1989) 207 Cal.App.3d 1501 [256 Cal.Rptr. 6]

CAL 1989-116, CAL 1981-56, LA 489 (1997)

-not applicable to business deal between attorney and client
Mayhew v. Benninghoff, III (1997) 53 Cal.App.4th 1365 [62 Cal.Rptr.2d 271]

Certification of non-resident, out-of-state attorney representatives Code of Civil Procedure section 1282.4

Code of Civil Procedure section 1286.6 (authority to amend or correct a final award)

Delaney v. Dahl (2002) 99 Cal.App.4th 647 [121 Cal.Rptr.2d 663]

County bar association as arbitrator

immune from suit arising from arbitration of attorney-client dispute

Olney v. Sacramento County Bar Association (1989) 212 Cal.App.3d 807 [260 Cal.Rptr. 842]

Disqualification of arbitrator, grounds

Ceriale v. AMCO Insurance Company (1996) 48 Cal.App.4th 500 [55 Cal.Rptr.2d 685]

Betz v. Pankow (1995) 31 Cal.App.4th 1503 [38 Cal.Rptr.2d 107]

Betz v. Pankow (1993) 16 Cal.App.4th 919

Betz v. Pankow (1993) 16 Cal.App.4th 931

Banwait v. Hernandez (1988) 205 Cal.App.3d 823

Fee arbitration [See Fee. Professional liability.]

Business and Professions Code section 6200, et seq.

Richards, Watson & Gershon v. King (1995) 39 Cal.App.4th 1176 [46 Cal.Rptr.2d 169]

Manatt, Phelps, Rothenberg & Tunney v. Lawrence (1984) 151 Cal.App.3d 1165

OR 99-002

arbitrator's authority to determine own jurisdiction

National Union Fire Insurance Co. v. Stites Professional Law Corp. (1991) 235 Cal.App.3d 1718

binding private arbitration clause in attorney-client fee agreement not effective where client requested mandatory arbitration pursuant to State Bar rules for fee disputes

Alternative Systems, Inc. v. Carey (1998) 67 Cal.App.4th 1034 [79 Cal.Rptr.2d 567]

dismissal is not automatic after attorney fails to give client arbitration right notice in fee dispute action

Richards, Watson & Gershon v. King (1995) 39 Cal.App.4th 1176 [46 Cal.Rptr.2d 169]

insurer is not a "client" for purposes of mandatory fee arbitration and may not demand an arbitration of attorney's fees incurred on behalf of an insured client

National Union Fire Insurance Co. v. Stites Professional Law Corp. (1991) 235 Cal.App.3d 1718

notice of claim against client's fee guarantor

Wager v. Mirzayance (1998) 67 Cal.App.4th 1187 [79 Cal.Rptr. 661]

public policy

Alternative Systems, Inc. v. Carey (1998) 67 Cal.App.4th 1034 [79 Cal.Rptr.2d 567]

trial de novo after award of fees by arbitrator not preserved by client's filing of a malpractice claim

Shiver, McGrane & Martin v. Littell (1990) 217 Cal.App.3d 1041

waiver due to filing of pleading for affirmative relief

Juodakis v. Wolfrum (1986) 177 Cal.App.3d 587

Member of partnership is arbitrator when client of firm is party
LA(l) 1967-10

Res judicata and collateral estoppel, effect of

Benasra v. Mitchell Silberberg & Knupp (2002) 96 Cal.App.4th 96 [116 Cal.Rptr.2d 644]

Restrictive covenant in law firm's employment contract disputed by a departing attorney

-courts may not vacate an arbitration award except for statute

Moncharsh v. Heily & Blase (1992) 3 Cal.4th 1 [10 Cal.Rptr.2d 183]

Mayhew v. Benninghoff, III (1997) 53 Cal.App.4th 1365 [62 Cal.Rptr.2d 27]

ASSIGNED COUNSEL

Contract for private employment

SD 1969-9

Duty with respect to costs and expenses

LA 379 (1979)

ASSIGNMENT [See Trustee.]

Assignee

represent against former client's assignee in matter in which acted for client

LA(l) 1961-2

Assignee, lawyer

claim for purpose of collection

LA 7 (1918)

client's accounts for collection

LA 7 (1918)

client's interest in estate to secure loan

LA 228 (1955)

Assignor

(1937) 13 LABB 67

Legal malpractice claims are not assignable under California law and public policy

Curtis v. Kellogg & Andelson (1999) 73 Cal.App.4th 492 [86 Cal.Rptr.2d 536]

Baum v. Duckor Spradling & Metzger (1999) 72 Cal.App.4th 54 [84 Cal.Rptr.2d 703]

Kracht v. Perrin, Gartlan & Doyle (1990) 219 Cal.App.3d 1019 [268 Cal.Rptr.2d 637]

bankruptcy estate representative pursuing claim for the estate is not an assignee

Office of Statewide Health Planning and Development v. Musick, Peeler & Garrett (1999) 76 Cal.App.4th 830 [90 Cal.Rptr.2d 705]

shareholder's derivative action does not transfer the cause of action from the corporation to the shareholders

McDermott, Will & Emory v. Superior Court (James) (2000) 83 Cal.App.4th 378 [99 Cal.Rptr.2d 622]

Lottery ticket to attorney

LA 115 (1937)

Third-party funding of lawsuit in exchange for interest in proceeds distinguished from buying a claim

LA 500 (1999)

ASSOCIATE

City council member's practice by

CAL 1977-46, LA(l) 1975-4

ASSOCIATE COUNSEL

Conducts employer's practice during employer's disability or absence

LA 348 (1975)

Definition

Chambers v. Kay (2002) 29 Cal.4th 142 [126 Cal.Rptr.2d 536] Rule 1-100(B)(4), Rules of Professional Conduct where an outside lawyer functions on a particular matter essentially on the same basis as an employee, the outside lawyer is an associate for purposes of rule 2-200

Sims v. Charness (2001) 86 Cal.App.4th 884 [103 Cal.Rptr.2d 619]

Duty to represent a client competently

LA 383 (1979)

Duty with respect to disabled employer's practice

LA 348 (1975)

Form for listing on announcements

SF 1973-18

Practice by employer of when associate is prosecutor

LA 377 (1978)

Represented other side

LA 363 (1976)

ASSOCIATE COUNSEL

Division of fees

association of outside counsel not a basis for exemption from 2-200 requirements

Chambers v. Kay (2002) 29 Cal.4th 142 [126 Cal.Rptr.2d 536]

Employment as subject to approval of other attorney

LA 183 (1951)

Employment as, subject to approval of client

Sims v. Charness (2001) 86 Cal.App.4th 884 [103 Cal.Rptr.2d 619]

LA 473 (1993), SD 1974-2

ATTACHMENT [See Fee, unpaid.]

Of assets of another lawyer's client when learned of assets during unrelated representation

LA(l) 1963-1

ATTORNEY-ATTORNEY RELATIONSHIP

Business and Professions Code section 6068(f)

Civil Code section 47(2)

Rules 2-100, 2-200, 2-300, and 2-400, Rules of Professional Conduct

United States v. Wunsch (9th Cir. 1996) 84 F.3d 1110, 1119

In the Matter of Anderson (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 775, 786-787

Attorney as agent of another

Beck v. Wecht (2002) 28 Cal.4th 289 [121 Cal.Rptr.2d 384]

Trimble v. Steinfeldt (1986) 178 Cal.App.3d 646 [224 Cal.Rptr. 195]

Pollack v. Lytle (1981) 120 Cal.App.3d 931 [175 Cal.Rptr. 81]

Attorney as independent contractor

Wothington v. Unemployment Ins. App. Bd. (1976) 64 Cal.App.3d 384 [134 Cal.Rptr. 507]

Merrit v. Reserve Ins. Co. (1973) 34 Cal.App.3d 858 [110 Cal.Rptr. 511]

Otten v. San Francisco Hotel etc. Assn. (1946) 74 Cal.App.2d 341 [168 P.2d 739]

Associated Ind. Corp. v. Ind. Acc. Com. (1943) 56 Cal.App.2d 804 [133 P.2d 698]

Communications with the State Bar are privileged

Chen v. Fleming (1983) 147 Cal.App.3d 36

Consultation with an independent attorney regarding the client's case may be permitted

SD 1996-1

Division of fees

by attorneys who represented each other in recovery of contingent fee due under retainer agreement

Farmers Insurance Exchange v. Law Offices of Conrado Joe Sayas, Jr. (9th Cir. 2001) 250 F.3d 1234

former shareholder of law firm has no ownership or lien interest upon fees owed to firm by client

City of Morgan Hill v. Brown (1999) 71 Cal.App.4th 1114 [84 Cal.Rptr.2d 361]

post-dissolution profits from unfinished partnership business

*Dickson, Carlson & Campillo v. Pole (2000) 83 Cal.App.4th 436 [99 Cal.Rptr.2d 678]

requires written disclosure to client and client's written consent

Margolin v. Shemaria (2000) 85 Cal.App.4th 891 [102 Cal.Rptr.2d 502]

Fiduciary duty owed by partners of a dissolved partnership to each other

duty to complete the partnership's unfinished business and to act in the highest good faith

*Dickson, Carlson & Campillo v. Pole (2000) 83 Cal.App.4th 436 [99 Cal.Rptr.2d 678]

Fiduciary duty to protect the interest of clients does not extend to co-counsel

Beck v. Wecht (2002) 28 Cal.4th 289 [121 Cal.Rptr.2d 384]

Saunders v. Weissburg & Aronson (1999) 74 Cal.App.4th 869 [87 Cal.Rptr.2d 405], as mod. (August 9, 1999 and September 8, 1999)

Group of attorneys circulating names of other attorneys who fail to extend professional courtesies

LA 364 (1976)

Indemnity claim between attorneys not barred

Musser v. Provencher (2002) 28 Cal.4th 274 [121 Cal.Rptr.2d 373]

Insurer's attorney has duty to include insured's independent counsel in settlement negotiations and to fully exchange information

Novak v. Low, Ball & Lynch (1999) 77 Cal.App.4th 278 [91 Cal.Rptr.2d 453]

Lying to opposing counsel

In the Matter of Dahlz (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 269

Obligation to return telephone calls of other lawyers

LA(l) 1972-11

Opposing counsel may not be deposed in preparation for good faith settlement hearing

Spectra-Physics, Inc. v. Superior Court (1988) 198 Cal.App.3d 1487 [244 Cal.Rptr. 258]

Predecessor attorney/malpractice defendant may not cross-complain for equitable indemnity against successor attorney

Holland v. Thacher (1988) 199 Cal.App.3d 924 [245 Cal.Rptr. 247]

Representation of attorney-client against former attorney-client

LA 418 (1983)

Sanctions against attorney attempting to depose opposing counsel as a litigation tactic

Estate of Ruchti (1993) 12 Cal.App.4th 1593

Sanctions appropriate when attorney schedules depositions and serves subpoenas during time period of opposing counsel's known trips out of state and out of the country

Tenderloin Housing Clinic v. Sparks (1992) 8 Cal.App.4th 299 [10 Cal.Rptr.2d 371]

Special appearance by an attorney results in the formation of an attorney-client relationship with the litigant

In re Valinoti (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 498

Specially appearing attorney undertakes a limited association with the litigant's attorney of record

Streit v. Covington & Crowe (2000) 82 Cal.App.4th 441 [82 Cal.Rptr.2d 193]

Threat to opposing counsel

Standing Committee on Discipline of United States v. Ross (9th Cir. 1984) 735 F.2d 1168, 1171

ATTORNEY-CLIENT RELATIONSHIP [See Acceptance of employment. Appointment of attorney by court. Authority of attorney. Confidences of the client, disclosure. Contract for employment. Corporations. Substitution. Termination of attorney-client relationship. Withdrawal.]

Olson v. Superior Court (1984) 157 Cal.App.3d 780

Abstract

In re Ochse (1951) 38 Cal.2d 230, 231 [238 P.2d, 561]

Accusing opposing counsel of misrepresentation may be moral turpitude when done with gross neglect

In the Matter of Moriarty (Review Dept. 1999) 4 Cal. State Bar Ct. Rptr. 9

Acts constituting malpractice

Davis v. Damrell (1981) 119 Cal.App.3d 883 [174 Cal.Rptr. 257]

ATTORNEY-CLIENT RELATIONSHIP

Acts in role other than as an attorney

Aetna Casualty & Surety Co. v. Superior Court (1984) 153 Cal.App.3d 467, 475-476

Advance fees and costs [See Fees, advance.]

Adverse interest

In the Matter of Silverton (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 252

LA 492 (1998), LA 418 (1983)

Advise client of disability of attorney; associate's duty

LA 348 (1975)

Advise client of prior attorney's malpractice

LA 390 (1981)

Agency

exception – attorney neglect is punitive misconduct

Rosenthal v. Garner (1983) 142 Cal.App.3d 891 [191 Cal.Rptr. 300]

Appointment of attorney for indigent

Bailey v. Lawford (1993) 835 F.Supp. 550

Hernandez v. Superior Court (1992) 9 Cal.App.4th 1183 [12 Cal.Rptr.2d 55]

Tulare County v. Ybarra (1983) 143 Cal.App.3d 580, 586 [192 Cal.Rptr. 49]

Appointment of succeeding attorney

Franklin v. Murphy (9th Cir. 1984) 745 F.2d 1221, 1236

As bank's director, bank attorney

William H. Raley Co. v. Superior Court (1983) 149 Cal.App.3d 1042

Association for particular case

Wells Fargo & Co. v. San Francisco (1944) 25 Cal.2d 37 [152 P.2d 625]

Brunn v. Lucas, Pino & Luco (1959) 172 Cal.App.2d 450 [342 P.2d 508]

In re Valinoti (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 498

limited scope of representation as "appearance attorney" in an immigration proceeding is improper

In re Valinoti (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 498

specially appearing attorney undertakes a limited association with the litigant's attorney of record

Streit v. Covington & Crowe (2000) 82 Cal.App.4th 441 [82 Cal.Rptr.2d 193]

where an outside lawyer functions on a particular matter essentially on the same basis as an employee, the outside lawyer is an associate for purposes of rule 2-200

Sims v. Charness (2001) 86 Cal.App.4th 884 [103 Cal.Rptr.2d 619]

Attorney as agent

Echlin v. Superior Court (1939) 13 Cal.2d 368 [90 P.2d 6]

Sullivan v. Dunne (1926) 198 Cal. 183 [244 P. 343]

client has right and power to discharge at any time

O'Connell v. Superior Court (1935) 2 Cal.2d 418 [41 P.2d 334]

dissolves on suspension of attorney

Lovato v. Santa Fe Internat. Corp. (1984) 151 Cal.App.3d 549 [198 Cal.Rptr. 838]

exception when attorney has a present and co-existing interest in the object of representation

Echlin v. Superior Court (1939) 13 Cal.2d 368 [90 P.2d 63]

imputation of agency relationship

Rosenthal v. Garner (1983) 142 Cal.App.3d 891 [191 Cal.Rptr. 300]

-neglect imputed to client

Elston v. Turlock (1983) 148 Cal.App.3d 23

notice to attorney

-agent imputed to client

Lovato v. Santa Fe Internat. Corp. (1984) 151 Cal.App.3d 549 [198 Cal.Rptr. 838]

outside counsel for a corporation

Channel Lumber Co. Inc. v. Simon (2000) 78 Cal.App.4th 1222 [93 Cal.Rptr.2d 482]

Attorney as employee

Casselman v. Hartford etc. Co. (1940) 36 Cal.App.2d 700 [98 P.2d 539]

CAL 1993-132

Attorney as independent contractor

Wothington v. Unemployment Ins. App. Bd. (1976) 64 Cal.App.3d 384 [134 Cal.Rptr. 507]

Merrit v. Reserve Ins. Co. (1973) 34 Cal.App.3d 858 [110 Cal.Rptr. 511]

Otten v. San Francisco Hotel etc. Assn. (1946) 74 Cal.App.2d 341 [168 P.2d 739]

Associated Ind. Corp. v. Ind. Acc. Com. (1943) 56 Cal.App.2d 804 [133 P.2d 698]

LA 473 (1992)

outside counsel for a corporation

Channel Lumber Co. Inc. v. Simon (2000) 78 Cal.App.4th 1222 [93 Cal.Rptr.2d 482]

Attorney as trustee, client as beneficiary

Probate Code sections 16002 and 16004

Probate Code section 15687

*Civil Code section 2235 (repealed 7/1/87)

LA 496 (1998)

Attorney as witness

Reich v. Club Universe (1981) 125 Cal.App.3d 965, 970 [178 Cal.Rptr. 473]

Attorney assumes personal obligation of reasonable care

Palomo v. State Bar (1984) 36 Cal.3d 785, 795

specially appearing attorney owes a duty of care to the litigant

Streit v. Covington & Crowe (2000) 82 Cal.App.4th 441 [82 Cal.Rptr.2d 193]

In re Valinoti (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 498

Attorney entitled to reasonable value of services rendered, quantum meruit

Spires v. American Bus Lines (1984) 158 Cal.App.3d 206, 216

Attorney need not blindly follow desire of client

Blanton v. Womancare (1985) 38 Cal.3d 396 [212 Cal.Rptr. 151]

Young v. Rosenthal (1989) 212 Cal.App.3d 96 [260 Cal.Rptr. 369]

People v. McLeod (1989) 210 Cal.App.3d 585 [258 Cal.Rptr. 496]

Shepard v. Superior Court (1986) 180 Cal.App.3d 23

Wolfrich Corp. v. United Services Automobile Assn. (1983) 149 Cal.App.3d 1206, 1211

People v. Bolden (1979) 99 Cal.App.3d 375 [160 Cal.Rptr. 268]

court's advice to defendant that he follow his attorney's advice did not impair defendant's ability to waive his right to testify

United States v. Joelson (1993) 7 F.3d 174

Attorney neglect must be excused to avoid imputation to client

Griffis v. S.S. Kresge (1984) 150 Cal.App.3d 491

Attorney not liable to insured when insurer, under consent clause of policy, settles claim without consulting insured

New Plumbing Contractors, Inc. v. Edwards, Sooy & Byron (2002) 99 Cal.App.4th 799 [121 Cal.Rptr.2d 472]

Attorney of record

client can only act through attorney of record

McMunn v. Lehrke (1915) 29 Cal.App. 298, 308

criminal defendant either has an attorney or he is his own attorney, there is no middle ground

Brookner v. Superior Court (1998) 64 Cal.App.4th 1390

duty to avoid foreseeable prejudice to the client's interests

In the Matter of Dahlz (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 269

specially appearing attorney undertakes a limited association with the litigant's attorney of record

Streit v. Covington & Crowe (2000) 82 Cal.App.4th 441 [82 Cal.Rptr.2d 193]

Attorney's partner or employee

Little v. Caldwell (1894) 101 Cal.553 [36 P.2d 107]

Raskin v. Superior Court (1934) 138 Cal.App. 668 [33 P.2d 35]

Attorney-client have co-existing interests

SD 1983-11

ATTORNEY-CLIENT RELATIONSHIP

Authority of attorney

CPI Builders, Inc. v. IMPCO Technologies, Inc. (2001) 94 Cal.App.4th 1167 [114 Cal.Rptr.2d 851]
Burckhard v. Del Monte Corp. (1996) 48 Cal.App.4th 1912 [56 Cal.Rptr.2d 569]
Robertson v. Kou-Pin Chen (1996) 44 Cal.App.4th 1290 [52 Cal.Rptr.2d 264]
Levy v. Superior Court (1995) 10 Cal.4th 578 [41 Cal.Rptr.2d 878]
Blanton v. Womancare (1985) 38 Cal.3d 396 [212 Cal.Rptr. 151]
Linsk v. Linsk (1969) 70 Cal.2d 272, 276 [74 Cal.Rptr. 544]
In re Marriage of Helsel (1988) 198 Cal.App.3d 332 [243 Cal.Rptr. 657]
Alliance Bank v. Murray (1984) 161 Cal.App.3d 1 [207 Cal.Rptr. 233]
*In the Matter of Jennings (Review Dept. 1995) 3 Cal. State Bar Ct. Rptr. 337
CAL 2002-160
representation of a minor client in a dependency proceeding
LA 504 (2000)
-to enforce minor client's parental rights
In re Steven H. (2001) 86 Cal.App.4th 1023 [103 Cal.Rptr.2d 649]
to bind client
Code of Civil Procedure section 283
to settle lawsuit when client cannot be located
LA 441 (1987)
to settle lawsuit without client's consent
LA 505 (2000)
Borrowing from client on oral loan without complying with duties
In the Matter of Freydl (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 349
Burden to prove rests on client
Ferrara v. La Sala (1960) 186 Cal.App.2d 263 [9 Cal.Rptr. 179]
Business dealings with client must be fair and reasonable
Dixon v. State Bar (1982) 32 Cal.3d 728 [187 Cal.Rptr. 30, 653 P.2d 321]
In the Matter of Freydl (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 349
In the Matter of Silverton (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 252
Business transaction with former client with funds obtained by the representation
Hunnicutt v. State Bar (1988) 44 Cal.3d 362 [243 Cal.Rptr. 699]
In re Gillis (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 387
Client acts in reliance on advice of attorney
Melorch Builders, Inc. v. Superior Court (1984) 160 Cal.App.3d 931, 936-937
Client as beneficiary, attorney as trustee
Probate Code sections 16002 and 16004
Probate Code section 15687
*Civil Code section 2235 (repealed 7/1/87)
LA 496 (1998)
Client as co-counsel
People v. Dale (1978) 78 Cal.App.3d 722 [144 Cal.Rptr. 338]
Client assistance to counsel
People v. Matson (1959) 51 Cal.2d 777, 789 [336 P.2d 937]
payment to client
LA 437 (1985)
Client has right to discharge
Echlin v. Superior Court (1939) 13 Cal.2d 368 [90 P.2d 63]
absolute right with or without cause in California
In re Aesthetic Specialties, Inc. (Bkrptcy.App.Cal. 1984) 37 B.R. 679
exception when attorney has a present and co-existing interest in the object of the representation
Echlin v. Superior Court (1939) 13 Cal.2d 368 [90 P.2d 63]
should not be tied to attorney after losing faith
Fracasse v. Brent (1972) 6 Cal.3d 784 [100 Cal.Rptr. 385, 494 P.2d 9]

Client's choice of attorney

Asbestos Claims Facility v. Berry & Berry (1990) 219 Cal.App.3d 9 [267 Cal.Rptr. 896]
Johnson v. Superior Court (1984) 159 Cal.App.3d 573, 577-578 [205 Cal.Rptr. 605]
In the Matter of Phillips (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 315
automatic vicarious disqualification of a firm would reduce the right of the client to choose an attorney
County of Los Angeles v. United States District Court (Forsyth) (9th Cir. 2000) 223 F.3d 990
client's interests are paramount in any consideration of the relationship between attorney and client
Fracasse v. Brent (1972) 6 Cal.3d 784 [100 Cal.Rptr. 385, 494 P.2d 9]
must yield to considerations of ethics
Comden v. Superior Court (1978) 20 Cal.3d 906, 915 [145 Cal.Rptr. 9, 576 P.2d 971]
Client's non-payment of fee [See Fee.]
withdrawal
Rule 2-111(C)(1)(f), Rules of Professional Conduct (operative until May 26, 1989)
Rule 3-700, Rules of Professional Conduct (operative as of May 27, 1989)
-notice to client
LA 125 (1940)
-protect client's position in litigation
LA 125 (1940)
Client's rights may not be deprived because of attorney neglect
County of San Diego v. Magri (1984) 156 Cal.App.3d 641
pro bono client
Segal v. State Bar (1988) 44 Cal.3d 1077 [245 Cal.Rptr. 404]
Communications
between attorney and inmate client
-prison officials opening mail
Wolff v. McDonnell (1974) 418 U.S. 539 [94 S.Ct. 2963]
Mann v. Adams (9th Cir. 1988) 846 F.2d 589
with a minor client in ways consistent with minor's age, language skills, intelligence, experience, maturity, and mental condition
LA 504 (2000)
Competence of the client
People v. Davis (1984) 161 Cal.App.3d 796, 801-803
LA 509 (2002)
Competent representation at time of representation
Aloy v. Mash (1983) 144 Cal.App.3d 768 [192 Cal.Rptr. 818]
specially appearing attorney owes a duty of care to the litigant
Streit v. Covington & Crowe (2000) 82 Cal.App.4th 441 [82 Cal.Rptr.2d 193]
In re Valinoti (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 498
Condominium associations
Smith v. Laguna Sur Villas Community Association (2000) 79 Cal.App.4th 639 [94 Cal.Rptr.2d 321]
Confidence of client in attorney
CAL 1987-93, CAL 1984-83
Confidential in character
Curtis v. Kellogg & Andelson (1999) 73 Cal.App.4th 492 [86 Cal.Rptr.2d 536]
Baum v. Duckor Spradling & Metzger (1999) 72 Cal.App.4th 54 [84 Cal.Rptr.2d 703]
Pixweve Aircraft Co. v. Greenwood (1943) 61 Cal.App.2d 21 [141 P.2d 933]
In the Matter of Johnson (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 179

ATTORNEY-CLIENT RELATIONSHIP

Conflict of interest

client as beneficiary, attorney as trustee
 Probate Code sections 16002 and 16004
 Probate Code section 15687
 *Civil Code section 2235 (repealed 7/1/87)
 LA 496 (1998)

disqualification of counsel and firm

W.L. Gore & Assoc. v. Intern. Medical Prosthetics (9th Cir. 1984) 745 F.2d 1463, 1466-1467

none exists when trustee is also creditor

Vivitar Corp. v. Broten (1983) 143 Cal.App.3d 878 [192 Cal.Rptr. 281]

wife's signature on post-nuptial agreement was tantamount to a written waiver of any potential conflict of interest

In re Marriage of Friedman (2002) 100 Cal.App.4th 65 [122 Cal.Rptr.2d 412]

Conservatorship proceedings

attorney initiated conservatorship proceedings, absent client consent

CAL 1989-112, LA 450 (1988), OR 95-002, SD 1978-1, SF 1999-2

Consultation with, prima facie case of existence of

United States v. Rowe (9th Cir. 1996) 96 F.3d 1294

Davis v. State Bar (1983) 33 Cal.3d 231 [188 Cal.Rptr. 441, 655 P.2d 1276]

In re Marriage of Zimmerman (1993) 16 Cal.App.4th 556 [20 Cal.Rptr.2d 132]

People v. Thoi (1989) 213 Cal.App.3d 689 [261 Cal.Rptr. 789]

Miller v. Metzinger (1979) 91 Cal.App.3d 31 [154 Cal.Rptr. 22]

In re Peavey (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 483

CAL 1984-84, LA 465 (1991), SD 1977-6

attorney's duty to communicate includes the duty to advise

people who reasonably believe they are clients that they are, in fact, not clients

Butler v. State Bar (1986) 42 Cal.3d 323, 329 [228 Cal.Rptr. 499]

In the Matter of Kaplan (Review Dept. 1996) 3 Cal. State Bar Ct. Rptr. 547

burden rests on client to prove existence of

Ferrara v. LaSalla (1960) 186 Cal.App.2d 263 [9 Cal.Rptr. 179]

constructive attorney-client relationship not formed between a conservatee and her conservator's designated attorney

In re Lee G. (1991) 1 Cal.App.4th 17 [1 Cal.Rptr.2d 375]

contract formality is not required

Gulf Insurance Co. v. Berger, Kahn, et al. (2000) 79 Cal.App.4th 114 [93 Cal.Rptr.2d 534]

district attorney assigned to enforce a child support order did not establish attorney-client relationship re a malpractice action brought by the parent entitled to payment

Jager v. County of Alameda (1992) 8 Cal.App.4th 294

duty of confidentiality extends to preliminary consultations by a prospective client with a view to retention of that lawyer although employment does not result

People ex rel. Dept. of Corporations v. Speedee Oil Change Systems (1999) 20 Cal.4th 1135 [86 Cal.Rptr.2d 816]

LA 506

established by contract

Kim v. Orellana (1983) 145 Cal.App.3d 1024 [193 Cal.Rptr. 827]

for conflicts of interest purposes, an attorney represents the client when the attorney knowingly obtains material confidential information from the client and renders legal advice or services as a result

People ex rel. Dept. of Corporations v. Speedee Oil Change Systems (1999) 20 Cal.4th 1135 [86 Cal.Rptr.2d 816]

no duty to advise rejected client of limitations period in contemplated suit targeting attorney's existing client

Flatt v. Superior Court (1994) 9 Cal.4th 275 [36 Cal.Rptr.2d 537]

"on-going relationship" between attorney and client based on periodic visits by client to the attorney's office seeking legal assistance

In re Peavey (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 483

In the Matter of Hagen (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 153

relationship with individual attorney not with firm in general based on client's direct dealings with the individual attorney

Bernstein v. State Bar (1990) 50 Cal.3d 221

Contract for contingent fees

Waters v. Bourhis (1983) 142 Cal.App.3d 235 [190 Cal.Rptr. 833]

In the Matter of Silverton (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 252

Contract for employment

attorney agrees to waive specified fees if client agrees not to accept a confidentiality clause in any settlement

LA 505 (2000)

attorney requires inclusion of substitution of attorney clause

LA 371 (1977)

Contract limits fees

Grossman v. State Bar (1983) 34 Cal.3d 73 [192 Cal.Rptr. 397, 664 P.2d 542]

Contractual

Rosenfeld, Meyer and Susman v. Cohen (1983) 146 Cal.App.3d 200 [194 Cal.Rptr. 180]

Corporation as client

attorney for corporation does not represent shareholders

National Football League Properties, Inc. v. Superior Court (Raiders) (1998) 65 Cal.App.4th 100 [75 Cal.Rptr.2d 893]

Skarbrevik v. Cohen, England & Whitfield (1991) 231 Cal.App.3d 692, 703 [282 Cal.Rptr. 627]

outside counsel retained by corporation to defend against litigation was not agent of corporation for purposes of statute indemnifying persons used by reason of such agency for defense costs

Channel Lumber Co. Inc. v. Simon (2000) 78 Cal.App.4th 1222 [93 Cal.Rptr.2d 482]

parent/subsidiary considered single entity for conflict purposes

Baxter Diagnostics Inc. v. AVL Scientific Corp. (C.D. Cal. 1992) 798 F.Supp. 612

Teradyne, Inc. v. Hewlett-Packard Co. (N.D. Cal. 1991) 20 U.S.P.Q.2d 1143

Morrison Knudsen Corp. v. Hancock, Rothert & Bunshoft, LLP (1999) 69 Cal.App.4th 223 [81 Cal.Rptr.2d 425]

Brooklyn Navy Yard Cogeneration Partners v. Superior Court (1997) 60 Cal.App.4th 248 [70 Cal.Rptr.2d 419]

CAL 1989-113

prima facie case of fraud required to waive relationship

Dickerson v. Superior Court (1982) 135 Cal.App.3d 93

court appointed counsel

In re Joyleaf W. (1984) 150 Cal.App.3d 865, 868

In re Jay R. (1983) 150 Cal.App.3d 251, 262

shareholders derivative action

National Football League Properties, Inc. v. Superior Court (Raiders) (1998) 65 Cal.App.4th 100 [75 Cal.Rptr.2d 893]

Forrest v. Baeza (1997) 58 Cal.App.4th 65 [67 Cal.Rptr.2d 857]

against corporation's outside counsel cannot proceed because attorney-client privilege precludes counsel from mounting meaningful defense

McDermott, Will & Emory v. Superior Court (James) (2000) 83 Cal.App.4th 378 [99 Cal.Rptr.2d 622]

unincorporated organization

Smith v. Laguna Sur Villas Community Association (2000) 79 Cal.App.4th 639 [94 Cal.Rptr.2d 321]

Court appointed attorney for bankruptcy trustee may not be removed by spouse of bankrupt party

Matter of Fonouiller (9th Cir. 1983) 707 F.2d 441, 442

ATTORNEY-CLIENT RELATIONSHIP

Court appointed attorney to coordinate discovery in complex litigation

- no interference to parties' right to counsel of choice
 - Asbestos Claims Facility v. Berry & Berry (1990) 219 Cal.App.3d 9 [267 Cal.Rptr. 896]

Court appointed for criminal defendant for a civil action

- Yarbrough v. Superior Court (1983) 150 Cal.App.3d 388, 395

Creation of relationship

- United States v. Rowe (9th Cir. 1996) 96 F.3d 1294
- Responsible Citizens v. Superior Court (1993) 16 Cal.App. 4th 1717 [20 Cal.Rptr.2d 756]
- Fox v. Pollack (1986) 181 Cal.App.3d 954
- formed with bank when attorney writes an opinion letter for bank at the request of a client who is a customer of the bank
 - City National Bank v. Adams (2002) 96 Cal.App.4th 315 [117 Cal.Rptr.2d 125]
- mere "blue sky" work in offering does not create attorney-client relationship between underwriter's counsel and issuing company
 - Strasbourgger, Pearson, Tulcin, Wolff, Inc., et al. v. Wiz Technology (1999) 69 Cal.App.4th 1399 [82 Cal.Rptr.2d 326]
- payment of attorney fees alone not determinative, only a factor
 - Strasbourgger, Pearson, Tulcin, Wolff, Inc., et al. v. Wiz Technology (1999) 69 Cal.App.4th 1399 [82 Cal.Rptr.2d 326]
- specially appearing attorney forms an attorney-client relationship with the litigant
 - Streit v. Covington & Crowe (2000) 82 Cal.App.4th 441 [82 Cal.Rptr.2d 193]

Defendant must make knowing and intelligent waiver of counsel

- People v. Mellor (1984) 161 Cal.App.3d 32

Defined

- Barbara A. v. John G. (1983) 145 Cal.App.3d 369, 383-384 [193 Cal.Rptr. 442]

Definition of attorney

- Evidence Code section 950

Definition of client

- Evidence Code section 951

Dependency proceeding

- representation of a minor client
 - LA 504 (2000)

Discharge of attorney, rights and obligations of client

- Jeffrey v. Pounds (1977) 67 Cal.App.3d 6, 9

Disqualification of attorney

- attorney retained by insurer to represent insured has attorney-client relationship with insurer for purposes of
 - State Farm Mutual Automobile Insurance Company v. Federal Insurance Company (1999) 72 Cal.App.4th 1422 [86 Cal.Rptr.2d 20]
- former personal involvement with opposing party
 - City National Bank v. Adams (2002) 96 Cal.App.4th 315 [117 Cal.Rptr.2d 125]
 - Dill v. Superior Court (1984) 158 Cal.App.3d 301, 306 [205 Cal.Rptr. 671]
- hardship to client
 - Trone v. Smith (9th Cir. 1980) 621 F.2d 994, 1002

Disqualification of firm

- presumption of shared confidences in a law firm
 - rebuttable
 - County of Los Angeles v. United States District Court (Forsyth) (9th Cir. 2000) 223 F.3d 990

District attorney

- no attorney-client relationship is created between district attorney and parent in support enforcement actions
 - In re Marriage of Ward (1994) 29 Cal.App.4th 1452 [35 Cal.Rptr.2d 32]

Donation of legal services [See Auction.]

Duty of attorney [See Duties of attorney.]

- not to offer false testimony
 - Business and Professions Code section 6068(d)
 - Penal Code section 127
 - Rule 7-105, Rules of Professional Conduct (operative until May 26, 1989)

- Rule 5-200, Rules of Professional Conduct (operative as of May 27, 1989)
- In re Branch (1969) 70 Cal.2d 200, 210 [138 Cal.Rptr. 620]
- People v. Pike (1962) 58 Cal.2d 70, 97 [22 Cal.Rptr. 664, 372 P.2d 656]
- Young v. Rosenthal (1989) 212 Cal.App.3d 96 [260 Cal.Rptr. 369]
- People v. Lucas (1969) 1 Cal.App.3d 637, 643 [81 Cal.Rptr. 840]
- In the Matter of Dahlz (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 269

outlast employment

- LA 389 (1981)

representation of a minor client in a dependency proceeding

- LA 504 (2000)

to client

- Palomo v. State Bar (1984) 36 Cal.3d 785
- specially appearing attorney owes a duty of care to the litigant
 - Streit v. Covington & Crowe (2000) 82 Cal.App.4th 441 [82 Cal.Rptr.2d 193]

to make files available to client on withdrawal

- CAL 1994-134, LA 493 (1998), SD 1997-1, SD 1984-3, SD 1977-3, SF 1996-1

to represent client until withdrawal or substitution

- In re Jackson (1985) 170 Cal.App.3d 773 [216 Cal.Rptr. 539]
- In the Matter of Dahlz (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 269

to represent client zealously

- People v. McKenzie (1983) 34 Cal.3d 616 [194 Cal.Rptr. 462, 668 P.2d 769]

to take all actions necessary to protect his client's rights may not be sanctioned

- *Silliman v. Municipal Court (1983) 143 Cal.App.3d 327 [91 Cal.Rptr. 735]

to take reasonable measures to determine law at time of actions

- *Sharpe v. Superior Court (1983) 143 Cal.App.3d 469 [192 Cal.Rptr. 16]

Effect on communication with opposing party on attorney-client relationship

- People v. Sharp (1983) 150 Cal.App.3d 13, 18

Established by contract

- Kim v. Orellana (1983) 145 Cal.App.3d 1024 [193 Cal.Rptr. 827]

Established by inquirers calling attorney telephone hotline for advice

- LA 449 (1988)

Estoppel

- attorney for suspended corporation cannot claim that statute of limitations expired when reliance upon his advice led to the statute expiring
 - Leasequip, Inc. v. Dapeer (2002) 103 Cal.App.4th 394 [126 Cal.Rptr.2d 782]

Executors

- existence of relationship for purposes of privilege
 - Shannon v. Superior Court (1990) 217 Cal.App.3d 986

Existence of, prima facie case

- Miller v. Metzinger (1979) 91 Cal.App.3d 31 [154 Cal.Rptr. 22]

Extended attorney-client privilege to lay persons

- Welfare Rights Organization v. Crisan (1983) 33 Cal.3d 766 [191 Cal.Rptr. 919, 661 P.2d 1073]

Extent of privileged communications

- People v. Chapman (1984) 36 Cal.3d 98, 110
- In the Matter of Johnson (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 179

Failure to communicate with clients

- Butler v. State Bar (1986) 42 Cal.3d 323 [228 Cal.Rptr. 499]
- Smith v. State Bar (1986) 38 Cal.3d 525 [213 Cal.Rptr. 236]
- Gordon v. State Bar (1982) 31 Cal.3d 748, 757 [183 Cal.Rptr. 861, 647 P.2d 137]
- In the Matter of Freydl (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 349

ATTORNEY-CLIENT RELATIONSHIP

Failure to disclose legal authority in the controlling jurisdiction adverse to client
breach of duty
Southern Pacific Transp. v. P.U.C. of State of California (9th Cir. 1983) 716 F.2d 1285, 1291

Fee payment as evidence of existence of relationship
Hicks v. Drew (1897) 117 Cal. 305

Fiduciary duty
Kruseska v. Baugh (1982) 138 Cal.App.3d 562, 567 [188 Cal.Rptr. 57]
In the Matter of Kittrell (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 195

absent attorney-client relationship
San Gabriel Basin Water Quality Authority v. Aerojet-General Corp. (C.D. Cal. 2000) 105 F.Supp.2d 1095
Galardi v. State Bar (1987) 43 Cal.3d 683 [238 Cal.Rptr. 774]
American Airlines v. Sheppard Mullin, Richter & Hampton (2002) 96 Cal.App.4th 1017 [117 Cal.Rptr.2d 685]

does not extend to co-counsel
Beck v. Wecht (2002) 28 Cal.4th 289 [121 Cal.Rptr.2d 384]
Saunders v. Weissburg & Aronson (1999) 74 Cal.App.4th 869 [87 Cal.Rptr.2d 405], as mod. (August 9, 1999 and September 8, 1999)

Fiduciary relationship
*GATX/Airlog Company v. Evergreen International Airlines, Inc. (1998) 8 F.Supp.2d 1182
Elan Transdermal, Ltd. v. Cygnus Therapeutic Systems (N.D. Cal. 1992) 809 F.Supp. 1383, 1384
Kearns v. Fred Lavery Porsche Audi Co. (C.A. Fed. 1984) 745 F.2d 600, 603-605
Metropolis etc. Sav. Bank v. Monnier (1915) 169 Cal. 592, 598 [147 P. 265]
Channel Lumber Co. Inc. v. Simon (2000) 78 Cal.App.4th 1222 [93 Cal.Rptr.2d 482]
In re Gillis (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 387
In re McCarthy (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 364

Former client
business transaction using funds obtained by the representation
Hunnecutt v. State Bar (1988) 44 Cal.3d 362 [243 Cal.Rptr. 699]
In re Gillis (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 387
In the Matter of Hultman (Review Dept. 1995) 3 Cal. State Bar Ct. Rptr. 297

Friends require the same strict adherence to professional rules and record keeping as regular clients
In the Matter of Cacioppo (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 128

Gifts to attorney
Rule 4-400, Rules of Professional Conduct (operative as of May 27, 1989)
McDonald v. Hewlett (1951) 102 Cal.App.2d 680 [228 P.2d 83]
attorney/beneficiary drafts gift instrument
Probate Code sections 15687, 21350 et seq.
Bank of America v. Angel View Crippled Children's Foundation (1998) 72 Cal.App.4th 451 [85 Cal.Rptr.2d 117]
Magee v. State Bar (1962) 58 Cal.2d 423 [24 Cal.Rptr. 839]

Good faith of defendant client
People v. Yackee (1984) 161 Cal.App.3d 843, 849

Guardian ad litem
Torres v. Friedman (1985) 169 Cal.App.3d 880, 887 [215 Cal.Rptr. 604]

Imputation of knowledge
Greene v. State of California (1990) 222 Cal.App.3d 117 [272 Cal.Rptr. 52]
Mossman v. Superior Court (1972) 22 Cal.App.3d 706 [99 Cal.Rptr. 638]
Savoy Club v. Los Angeles County (1970) 12 Cal.App.3d 1034 [91 Cal.Rptr. 198]

presumption of shared confidences in a law firm
-rebuttable
County of Los Angeles v. United States District Court (Forsyth) (9th Cir. 2000) 223 F.3d 990

Imputed to client
Elston v. Turlock (1983) 148 Cal.App.3d 23

Incompetent client
attorney initiated conservatorship proceedings, absent client consent
CAL 1989-112, LA 450 (1988), OR 95-002, SD 1978-1, SF 1999-2
duty of confidentiality compared with duty to be truthful to the court
Bryan v. Bank of America (2001) 86 Cal.App.4th 185 [103 Cal.Rptr.2d 148]

In propria persona client and advisor counsel share handling of case
Johnson, York, O'Connor & Caudill v. Board of County Commissioners for the County of Fremont (1994) 868 F.Supp. 1226
People v. Bloom (1989) 48 Cal.3d 1194 [259 Cal.Rptr. 669]
Mix v. Tumanjan Development Corp. (2002) 102 Cal.App.4th 1318 [126 Cal.Rptr.2d 267]
People v. Bourland (1966) 247 Cal.App.2d 76, 87 [55 Cal.Rptr. 357]
LA 502 (1999), LA 483 (1995), LA 432 (1984)
attorney as "ghost writer"
Ricotta v. State of California (S.D. Cal. 1998) 4 F.Supp.2d 961, 987-988
LA 502 (1999)

Insurance company
San Gabriel Basin Water Quality Authority v. Aerojet-General Corp. (C.D. Cal. 2000) 105 F.Supp.2d 1095
Gulf Insurance Co. v. Berger, Kahn et al. (2000) 79 Cal.App.4th 114 [93 Cal.Rptr.2d 534]
Novak v. Low, Ball & Lynch (1999) 77 Cal.App.4th 278 [91 Cal.Rptr.2d 453]
American Casualty Co. v. O'Flaherty (1997) 57 Cal.App.4th 1070
Unigard Ins. Group v. O'Flaherty & Belgum (1997) 38 Cal.App.4th 1229
Purdy v. Pacific Automobile Ins. Co. (1984) 157 Cal.App.3d 59
American Mutual Liability Ins. Co. v. Superior Court (1974) 38 Cal.App.3d 579
Lysick v. Walcom (1968) 258 Cal.App.2d 136 [65 Cal.Rptr. 406]
"monitoring counsel" distinguished from "Cumis counsel"
San Gabriel Basin Water Quality Authority v. Aerojet-General Corp. (C.D. Cal. 2000) 105 F.Supp.2d 1095

Insurer's attorney has duty to include insured's independent counsel in settlement negotiations and to fully exchange information
Novak v. Low, Ball & Lynch (1999) 77 Cal.App.4th 278 [91 Cal.Rptr.2d 453]

Intent and conduct of the parties are important factors to be considered
Hecht v. Superior Court (1987) 192 Cal.App.3d 560 [237 Cal.Rptr. 528]

Interference with
by third party (district attorney and sheriff)
-results in dismissal of criminal accused's case
Boulas v. Superior Court (1987) 187 Cal.App.3d 356

Interference with economic advantage
Rosenfeld, Meyer & Sussman v. Cohen (1983) 146 Cal.App.3d 200 [194 Cal.Rptr. 180]

Intervention by lay entity
attorney employed by religious organization
-performs legal services for members of
LA 298 (1966)

Joinder of attorney and client in an action when neither can show joinder was manifestly prejudicial
United States v. Rogers (9th Cir. 1983) 649 F.2d 1117, Rev. 103 S.C. 2132

ATTORNEY-CLIENT RELATIONSHIP

- Joint defense agreements
establishes an implied attorney-client relationship with the co-defendant
United States v. Henke (9th Cir. 2000) 222 F.3d 633
- Joint venturers
Pavich v. Santucci (2000) 85 Cal.App.4th 382 [102 Cal.Rptr.2d 125]
fiduciary duties exist even absent attorney-client relationship
Galardi v. State Bar (1987) 43 Cal.3d 683 [238 Cal.Rptr. 774]
LA 412 (1983)
- Litigious client
Bradshaw v. U.S. Dist. Court (9th Cir. 1984) 742 F.2d 515, 517-518
- Loan to client
Dixon v. State Bar (1982) 32 Cal.3d 728, 733
Bradpiece v. State Bar (1974) 10 Cal.3d 742 [111 Cal.Rptr. 905, 518 P.2d 337]
In the Matter of Fonte (Review Dept. 1994) 2 Cal. State Bar Ct. Rptr. 752
- Malpractice actions tolled while attorney continues to represent client
Lockley v. Law Office of Cantrell, Green, Pekich, Cruz & McCort (2001) 91 Cal.App.4th 875 [110 Cal.Rptr.2d 877]
Baright v. Willis (1984) 151 Cal.App.3d 303 [198 Cal.Rptr. 510]
test for whether attorney continues to represent client in same matter
Crouse v. Brobeck, Phleger & Harrison (1998) 67 Cal.App.4th 1509 [80 Cal.Rptr.2d 94]
Worthington v. Rusconi (1994) 29 Cal.App.4th 1488, 1496-1467
- Malpractice claims are not assignable under California law and public policy
Curtis v. Kellogg & Andelson (1999) 73 Cal.App.4th 492 [86 Cal.Rptr.2d 536]
Baum v. Duckor Spradling & Metzger (1999) 72 Cal.App.4th 54 [84 Cal.Rptr.2d 703]
Kracht v. Perrin, Gartlan & Doyle (1990) 219 Cal.App.3d 1019 [268 Cal.Rptr.2d 637]
bankruptcy estate representative pursuing claim for the estate is not an assignee
Office of Statewide Health Planning and Development v. Musick, Peeler & Garrett (1999) 76 Cal.App.4th 830 [90 Cal.Rptr.2d 705]
shareholder's derivative action does not transfer the cause of action from the corporation to the shareholders
McDermott, Will & Emory v. Superior Court (James) (2000) 83 Cal.App.4th 378 [99 Cal.Rptr.2d 622]
- May not relinquish substantial right of client
exception: best discretion
Blanton v. Womancare, Inc. (1985) 38 Cal.3d 396 [212 Cal.Rptr. 151]
- Minor as client
In re Steven H. (2001) 86 Cal.App.4th 1023 [103 Cal.Rptr.2d 649]
LA 504 (2000)
dependency proceeding
Carroll v. Superior Court (2002) 101 Cal.App.4th 1423 [124 Cal.Rptr.2d 891]
- Minor must have independent counsel in hearing for emancipation from parental custody and control
In re Melicia L. (1988) 207 Cal.App.3d 51 [254 Cal.Rptr. 541]
- Mismanagement of funds
client
-administrator
--report to court
LA 132 (1940)
--restitution
LA 132 (1940)
- Misrepresentation to client regarding status of case
Butler v. State Bar (1986) 42 Cal.3d 323 [228 Cal.Rptr. 499]
- Negligent attorney may not shift liability to another through indemnification
Munoz v. Davis (1983) 141 Cal.App.3d 420 [190 Cal.Rptr. 400]
- Non-payment of fees by client [See Fees, unpaid.]
lawyer declines to perform further legal services
LA 371, LA 32 (1925)
- Not recoverable unless the contract or statute provides
Glynn v. Marquette (1984) 152 Cal.App.3d 277, 280
- Obligation of attorney to protect client's interest
Kirsch v. Duryea (1978) 21 Cal.3d 303, 309 [146 Cal.Rptr. 218, 578 P.2d 935, 6 A.L.R. 4th 334]
LA 504 (2000)
specially appearing attorney owes a duty of care to the litigant
Streit v. Covington & Crowe (2000) 82 Cal.App.4th 441 [82 Cal.Rptr.2d 193]
In re Valinoti (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 498
- Of record, party may only act through
McMunn v. Lehrke (1915) 29 Cal.App. 298, 308
- Partnership
Sky Valley Ltd. Partnership & Tang Industries v. ATX Sky Valley Ltd. (1993) 150 F.R.D 648
Responsible Citizens v. Superior Court (1993) 16 Cal.App. 4th 1717
attorney represents all partners as to partnership matters
Hecht v. Superior Court (1987) 192 Cal.App.3d 560 [237 Cal.Rptr. 528]
- Party defined, corporate context
LA 410 (1983), LA 369 (1977)
- Party represented by counsel
communicating with
-re counsel's neglect of matter
LA 14 (1922)
-re subject in controversy
LA 14 (1922)
- Personal liability to client
Oren Royal Oaks Venture v. Stanman (1984) 160 Cal.App.3d 879, 883
- Power to compel client's acts
Purdy v. Pacific Automobile Ins. Co. (1984) 157 Cal.App.3d 59, 78 [203 Cal.Rptr. 524]
- Preparing pleadings for in propria persona litigant
Ricotta v. State Bar of California (S.D. Ca. 1998) 4 F.Supp.2d 961, 987-988
LA 502 (1999), LA 483 (1995), LA 432 (1984)
- Prison officials may not read mail, only open it
People v. Poe (1983) 145 Cal.App.3d 574 [193 Cal.Rptr. 479]
- Private attorney under contract to government agency
People ex rel. Clancy v. Superior Court (1985) 39 Cal.3d 740 [218 Cal.Rptr. 24]
- Privilege [See Confidences of the Client, privilege]
State Compensation Insurance Fund v. Superior Court (People) (2001) 91 Cal.App.4th 1080, 92 Cal.App.4th 1016A [111 Cal.Rptr.2d 284, 66 Cal. Comp. Cases 1061]
Mitchell v. Superior Court (1984) 37 Cal.3d 591 [208 Cal.Rptr. 886]
does not protect third party information unless third party is an agent of client
In re Polos (1984) 154 Cal.App.3d 448, 456 [200 Cal.Rptr. 749]
survives client's death
Swidler & Berlin v. United States (1998) 524 U.S. 399 [118 S.Ct. 2081]
- Protection of
Panduit Corp. v. All States Plastic Mfg. Co., Inc. (C.A. Fed 1984) 744 F.2d 1564, 1577
Mitton v. State Bar (1969) 71 Cal.2d 525, 534 [78 Cal.Rptr. 649, 455 P.2d 753]
- Publishing book [See Conflict of interest, literary rights.]
attorney
-concerning representation of criminal defendant
Maxwell v. Superior Court (1982) 30 Cal.3d 606 [180 Cal.Rptr. 177]
LA 287 (1965)

ATTORNEY-CLIENT RELATIONSHIP

- third party
 - attorney furnishes information and material
 - relating to representation of criminal defendant
 - LA 287 (1965)
- Purchaser of client's assets
 - LA 433 (1984)
- Purpose
 - intention of confidentiality
 - Mitchell v. Superior Court (1984) 37 Cal.3d 591 [208 Cal.Rptr. 886]
- Reasonable measures must be taken to determine the law at time of actions
 - *Sharpe v. Superior Court (1983) 143 Cal.App.3d 469 [192 Cal.Rptr. 16]
- Receivers
 - existence of relationship for purposes of privilege
 - Shannon v. Superior Court (1990) 217 Cal.App.3d 986
- Refusal to execute substitution works hardship on client
 - Kallen v. Delug (1984) 157 Cal.App.3d 940 [203 Cal.Rptr. 879]
- Reimbursement of client
 - for damages recovered by defendant in action
 - LA 76 (1934)
 - reliance on attorney's advice is only one single factor in determining whether a trustee has breached a fiduciary duty
 - Donovan v. Mazzola (9th Cir. 1983) 716 F.2d 1226, 1234
- Reliance on attorney
 - not good cause for filing late tax return
 - Sarto v. United States (N.D. Cal. 1983) 563 F.Supp. 476, 478
 - Reliance on counsel's advice is only one single factor in determining whether a trustee has breached a fiduciary duty
 - Donovan v. Mazzola (9th Cir. 1983) 716 F.2d 1226
 - Reliance on party's opinion that he is represented by counsel
 - Ewell v. State Bar (1934) 2 Cal.2d 209, 216, 220
 - CAL 1996-145
- Remedies of former clients
 - William H. Raley Co. v. Superior Court (1983) 149 Cal.App.3d 1042
- Represent client zealously
 - People v. McKenzie (1983) 34 Cal.3d 616 [194 Cal.Rptr. 462, 668 P.2d 769]
- Representation on previous charges
 - United States v. Masuolo (2nd Cir. 1973) 489 F.2d 217, 223
- Respective roles
 - People v. Davis (1984) 161 Cal.App.3d 796, 801-804
 - Leaf v. City of San Mateo (1984) 150 Cal.App.3d 1184, 1189
- Retention of out-of-state law firm by California resident
 - Vorys, Sater, Seymour & Pease v. Ryan (1984) 153 Cal.App.3d 91, 94-95
- Right of a party to select counsel
 - Panduit Corp. v. All States Plastic Mfg. Co., Inc. (7th Cir. 1984) 744 F.2d 1564, 1576
 - automatic vicarious disqualification of a firm would reduce the right
 - County of Los Angeles v. United States District Court (Forsyth) (9th Cir. 2000) 223 F.3d 990
- Right of defendant
 - People v. Davis (1984) 161 Cal.App.3d 796, 802
 - to counsel of choice
 - People v. Trapps (1984) 158 Cal.App.3d 265, 272-273
- Right to counsel of choice
 - Neal v. Health Net, Inc. (2002) 100 Cal.App.4th 831 [123 Cal.Rptr.2d 202]
 - Strasbourg, Pearson, Tulcin, Wolff, Inc., et al. v. Wiz Technology (1999) 69 Cal.App.4th 1399 [82 Cal.Rptr.2d 326]
 - In re Marriage of Zimmerman (1993) 16 Cal.App.4th 556 [20 Cal.Rptr.2d 132]
 - Dill v. Superior Court (1984) 158 Cal.App.3d 301, 306 [205 Cal.Rptr. 671]
 - People v. Stevens (1984) 156 Cal.App.3d 1119, 1128
 - automatic disqualification of a firm would reduce the right
 - County of Los Angeles v. United States District Court (Forsyth) (9th Cir. 2000) 223 F.3d 990
- criminal defendant's right to discharge retained counsel
 - People v. Lara (2001) 86 Cal.App.4th 139 [103 Cal.Rptr.2d 201]
- public defender not required to represent indigent person on appeal
 - Erwin v. Appellate Department (1983) 146 Cal.App.3d 715
- Sanctions may not be levied against attorney for taking all actions necessary to protect his clients
 - *Silliman v. Municipal Court (1983) 143 Cal.App.3d 327 [191 Cal.Rptr. 735]
- Scope of representation
 - Maxwell v. Cooltech (1997) 57 Cal.App.4th 629 [67 Cal.Rptr.2d 293]
 - LA 502 (1999), LA 483 (1995), LA 476 (1995)
 - specially appearing attorney undertakes a limited association with the litigant's attorney of record
 - Streit v. Covington & Crowe (2000) 82 Cal.App.4th 441 [82 Cal.Rptr.2d 193]
- Sexual harassment of client
 - McDaniel v. Gile (1991) 230 Cal.App.3d 363 [281 Cal.Rptr. 242]
- Sexual relations with client
 - Rule 3-120, Rules of Professional Conduct
 - Business and Professions Code section 6106.9
 - CAL 1987-92
- Special appearances
 - specially appearing attorney forms an attorney-client relationship with the litigant and owes a duty of care to the litigant
 - Streit v. Covington & Crowe (2000) 82 Cal.App.4th 441 [82 Cal.Rptr.2d 193]
 - LA 483 (1995)
- Statutory reduction of defendant's control of the case
 - People v. Davis (1984) 161 Cal.App.3d 796, 802 fn. 2
- Substantial previous relationship
 - Vangness v. Superior Court (1984) 159 Cal.App.3d 1087, 1090 [206 Cal.Rptr. 45]
- Substantial right of client may not be relinquished: exception – best discretion
 - Blanton v. Womancare (1985) 38 Cal.3d 396 [212 Cal.Rptr. 151]
- Substitution of attorney clause in retainer agreement
 - LA 371 (1977)
- Substitution when conflicts of interest occur based on obligations to clients in different proceedings
 - Leversen v. Superior Court (1983) 34 Cal.3d 530
- Telephone "hotline" run by attorney
 - LA 449 (1988)
- Termination of employment
 - Worthington v. Rusconi (1994) 29 Cal.App.4th 1488 [35 Cal.Rptr.2d 169]
- Threat to
 - Phaksuan v. United States (9th Cir. 1984) 722, F.2d 591, 594
 - mere threat of malpractice suit against criminal defense attorney insufficient to create actual conflict of interest
 - United States v. Moore (9th Cir. 1998) 159 F.3d 1154
- Trustees
 - existence of relationship for purposes of privilege
 - Wells Fargo Bank v. Superior Court (Boltwood) (2000) 22 Cal.4th 201 [901 Cal.Rptr.2d 716]
 - Moeller v. Superior Court (1997) 16 Cal.4th 1124 [69 Cal.Rptr.2d 317]
 - Shannon v. Superior Court (1990) 217 Cal.App.3d 986 [266 Cal.Rptr. 242]
- Unauthorized appearance by mistake
 - Omega Video Inc. v. Superior Court (1983) 146 Cal.App.3d 470
- Unauthorized representation
 - Standing Com. on Dis. of United States v. Ross (9th Cir. 1984) 735 F.2d 1168, 1172
 - Zirbes v. Stratton (1986) 187 Cal.App.3d 1407 [232 Cal.Rptr. 653]
 - In the Matter of Phillips (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 315

ATTORNEYS OF GOVERNMENTAL AGENCIES

Undue influence

Estate of Witt (1926) 198 Cal. 407, 419 [245 P.2d 197]

Violation of probation by client

leaving jurisdiction

-disclosure in letter

--privilege

LA 82 (1935)

Willful failure to perform and communicate

Trousil v. State Bar (1985) 38 Cal.3d 337 [211 Cal.Rptr. 525]

Wren v. State Bar (1983) 34 Cal.3d 81 [192 Cal.Rptr. 743, 665 P.2d 515]

In re Ronald A. Jackson (1985) 170 Cal.App.3d 773 [216 Cal.Rptr. 539]

Wills

Probate Code section 21350 et seq.

person who must sign a will is a client regardless of who has sought out and employed the attorney

SD 1990-3

Withdrawal

In the Matter of Dahlz (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 269

CAL 1983-74

inability to provide competent legal services because of disagreement with a minor client

LA 504 (2000)

Work product

client's right to

Lasky, Haas, Cohler & Munter v. Superior Court (1985) 172 Cal.App.3d 264, 276-277 [218 Cal.Rptr. 205]

Kallen v. Delug (1984) 157 Cal.App.3d 940, 950 [203 Cal.Rptr. 879]

Weiss v. Marcus (1975) 51 Cal.App.3d 590 [124 Cal.Rptr. 297]

SD 1997-1

ATTORNEYS OF GOVERNMENTAL AGENCIES [See Conflict of interest, disqualification.]

Business and Professions Code section 6131(a)

Rule 7-102, Rules of Professional Conduct (operative until May 26, 1989)

Rule 5-110, Rules of Professional Conduct (operative as of May 27, 1989) district attorney

Assistants' actions do not create official policy

Weinstein v. Mueller (N.D. Cal. 1983) 563 F.Supp. 923

Attorney-client relationship not formed between prosecutor enforcing child support & parent entitled to payment

Jager v. County of Alameda (1992) 8 Cal.App.4th 294

Attorney general

People v. Brown (1981) 29 Cal.3d 150 [172 Cal.Rptr. 478]

D'Amico v. Board of Medical Examiners (1974) 11 Cal.3d 1 [112 Cal.Rptr. 786]

People v. Birch Securities Co. (1948) 86 Cal.App.2d 703 [196 P.2d 143]

duty to investigate violations of Ethics in Government Act

Dellums v. Smith (N.D. Cal. 1984) 577 F.Supp. 1449, 1451-1452

Attorney general may represent board where another state agency in the underlying proceeding retains separate counsel to avoid prohibited dual representation conflict

State Water Resources Control Bd. v. Superior Court (2002) 97 Cal.App.4th 907 [118 Cal.Rptr.2d 784]

Authority of court to sanction

People v. Johnson (1984) 157 Cal.App.3d Supp.1, 8 fn. 5

Bonus program tied to savings by public agency

SD 1997-2

Child support modification and enforcement activities do not create an attorney-client relationship with any parent

Jager v. County of Alameda (1992) 8 Cal.App.4th 294

City attorney

People v. Rhodes (1974) 12 Cal.3d 180 [115 Cal.Rptr. 235]

Tri-Cor v. Hawthorne (1970) 8 Cal.App.3d 134 [87 Cal.Rptr. 311]

anti-discrimination suit against city attorney's employer is not entitled to First Amendment protection

Rendish v. City of Tacoma (W.D. WA 1997) 123 F.3d 1216

assigned to represent constituent agency

North Hollywood Project Area Committee v. City of Los Angeles (1998) 61 Cal.App.4th 719 [71 Cal.Rptr.2d 675]

recording a conversation per Penal Code section 633 while prosecuting misdemeanor cases

79 Ops. Cal. Atty. Gen. 221 (9/16/96; No. 96-304)

CAL 2001-156

Confidences

inadvertent disclosure

Gomez v. Vernon (9th Cir. Idaho 2001) 255 F.3d 1118 [50 Fed. R. Serv.3d (Callaghan) 436]

State Compensation Insurance Fund v. WPS, Inc. (1999) 70 Cal.App.4th 644 [82 Cal.Rptr.2d 799]

Conflict of interest

Aceves v. Superior Court (1996) 51 Cal.App.4th 584 [59 Cal.Rptr.2d 280]

Uhl v. Municipal Court (1974) 37 Cal.App.3d 526 [112 Cal.Rptr. 478]

advising constituent public agency ordinarily does not give rise to attorney-client relationship separate and distinct from entity of which agency is a part

North Hollywood Project Area Committee v. City of Los Angeles (1998) 61 Cal.App.4th 719 [71 Cal.Rptr.2d 675]

Civil Service Com. v. Superior Court (1984) 163 Cal.App.3d 70, 78 [209 Cal.Rptr. 159]

common interest between prosecutor's office and agency that funded a nuisance abatement specialist position in prosecutor's office does not in itself create a conflict

People v. Parmar (2001) 86 Cal.App.4th 781 [104 Cal.Rptr.2d 31]

county counsel giving advice to independent board of retirement

80 Ops. Cal. Atty. Gen. 36 (2/7/97; No. 96-301)

financial interest

Compagna v. City of Sanger (1996) 42 Cal.App.4th 533 [49 Cal.Rptr.2d 676]

SD 1997-2

former government attorney now associate in law firm

LA 246 (1957)

representation of one co-defendant by public defender and representation of other co-defendant by alternate public defender

People v. Christian (1996) 41 Cal.App.4th 986 [48 Cal.Rptr.2d 867]

CAL 2002-158

witness

Trujillo v. Superior Court (1983) 148 Cal.App.3d 368

CAL 2001-156

County counsel

Conservatorship of Early (1983) 35 Cal.3d 244, 255

Mize v. Crail (1973) 29 Cal.App.3d 797 [106 Cal.Rptr. 34]

combined public offices assumed by attorneys

Conservatorship of Early (1983) 35 Cal.3d 244, 255

giving advice to independent board of retirement

80 Ops. Cal. Atty. Gen. 36 (2/7/97; No. 96-301)

may serve simultaneously as a city council member

85 Ops. Cal. Atty. Gen. 115 (6/7/02; No. 01-1107)

CAL 2001-156

County prosecuting attorneys and investigators had absolute immunity from civil suits when duties carried out in preparation for prosecutor's case

Freeman on Behalf of the Sanctuary v. Hittle (9th Cir. 1983) 708 F.2d 442

Distinguish public officials from government employees

Cleland v. Superior Court (1942) 52 Cal.App.2d 530

District attorney

Madera v. Grendron (1963) 59 Cal.2d 798 [31 Cal.Rptr. 302] CAL 1979-51

authority of

People v. Casa Blanca Convalescent Homes, Inc. (1984) 159 Cal.App.3d 509, 531-532

Ciaccio v. Superior Court (1984) 156 Cal.App.3d 130, 133

authorized by law to communicate with parties represented by counsel

75 Ops. Cal. Atty. Gen. 223 (10/8/92; No. 91-1205)

ATTORNEYS OF GOVERNMENTAL AGENCIES

conflict of interest

Hambarian v. Superior Court (2002) 27 Cal.4th 826 [118 Cal.Rptr.2d 725]
People v. Eubanks (1996) 14 Cal.4th 580 [59 Cal.Rptr.2d 200]
Lewis v. Superior Court (1997) 53 Cal.App.4th 1277 [62 Cal.Rptr.2d 331]
People v. Merritt (1993) 19 Cal.App.4th 1573 [24 Cal.Rptr.2d 177]
People v. Conner (1983) 34 Cal.3d 141 [193 Cal.Rptr. 148, 666 P.2d 5]

defense attorney changes to prosecutor's office

Chambers v. Superior Court (1981) 121 Cal.App.3d 893 [175 Cal.Rptr. 575]

deputy district attorney cannot assert attorney-client privilege as to documents prepared in official capacity when the attorney is subject of criminal investigation

People ex rel. Lockyer v. Superior Court (Pfungst) (2000) 83 Cal.App.4th 387 [99 Cal.Rptr.2d 646]

determines the control of prosecution of criminal cases

People v. Sweeney (1984) 150 Cal.App.3d 553, 568-569

discharge of prosecutor for challenge to superior in election is not First Amendment violation

Fazio v. City and County of San Francisco (9th Cir. 1997) 125 F.3d 1328

discretionary charging authority

Davis v. Municipal Court (1984) 154 Cal.App.3d 996, 1003

disqualification, conflict of interest

Lewis v. Superior Court (1997) 53 Cal.App.4th 1277 [62 Cal.Rptr.2d 331]

People v. Merritt (1993) 19 Cal.App.4th 1573 [24 Cal.Rptr.2d 177]

*People v. Superior Court (Greer) (1977) 19 Cal.3d 255 [137 Cal.Rptr 476, 561 P.2d 1164]

dual representation

Kain v. Municipal Court (1982) 130 Cal.App.3d 499 [181 Cal.Rptr. 751]

duties

In re Martin (1983) 150 Cal.App.3d 148, 169

In re Ferguson (1971) 5 Cal.3d 525, 531
 OR 94-003

-acts on behalf of the state when training personnel and developing policy regarding prosecution and the preparation for prosecution of criminal violations of state law

Pitts v. Kern (1988) 17 Cal.4th 340 [70 Cal.Rptr.2d 823]

-of prosecutor

*People v. Eubanks (1996) 14 Cal.4th 580
People v. Conner (1983) 34 Cal.3d 141, 148

financial assistance to prosecutor's office disqualified district attorney

*People v. Eubanks (1996) 14 Cal.4th 580

holder of privilege with regard to material seized from office occupied by a deputy district attorney

People ex rel. Lockyer v. Superior Court (Pfungst) (2000) 83 Cal.App.4th 387 [99 Cal.Rptr.2d 646]

immunity from §1983 claims

-district attorney acted as state official when deciding whether to prosecute individual for criminal defense

Weiner v. San Diego County (9th Cir. 2000) 210 F.3d 1025

-fabricating evidence, filing false crime report, comments made to the media, and investigating crime against attorney may not be protected by absolute immunity

Milstein v. Cooley (9th Cir. 2001) 257 F.3d 1004

impartiality subject to private party influence

People v. Parmar (2001) 86 Cal.App.4th 781 [104 Cal.Rptr.2d 31]

may represent county in an action even if county has a county counsel

Rauber v. Herman (1991) 229 Cal.App.3d 942

recusal of entire staff, conflict of interest

*People v. Eubanks (1996) 14 Cal.4th 580

Lewis v. Superior Court (1997) 53 Cal.App.4th 1277 [62 Cal.Rptr.2d 331]

People v. Merritt (1993) 19 Cal.App.4th 1573

People v. Lopez (1984) 155 Cal.App.3d 813, 824-825

recusal of the prosecutor not required when victim pays for prosecutorial expenses

Hambarian v. Superior Court (2002) 27 Cal.4th 826 [118 Cal.Rptr.2d 725]

representation of same parties in different actions

Kain v. State Bar (1982) 130 Cal.App.3d 499, 504

role distinguished from prosecutor's role

Hoines v. Barney's Club Inc. (1980) 28 Cal.3d 603

Duties

competence

SD 1997-2

disclose identity of informants to defendant

Twiggs v. Superior Court (1983) 34 Cal.3d 360, 365-366 [194 Cal.Rptr. 152, 667 P.2d 1165]

loyalty

SD 1997-2

maintain contact with informants

Twiggs v. Superior Court (1983) 34 Cal.3d 360, 366-367 [194 Cal.Rptr. 152, 667 P.2d 1165]

Immune from tort liability arising out of conduct about civil cases

Custom Craft Carpets, Inc. v. Miller (1983) 137 Cal.App.3d 120 [187 Cal.Rptr. 78]

Judge's right to hire private counsel when county counsel has conflict of interest

Municipal Court v. Bloodgood (1982) 137 Cal.App.3d 29

Limitations on authority

Feminist Women's Health Center, Inc. v. Philibosian (1984) 157 Cal.App.3d 1076

Notice of motion to disqualify a district attorney

Penal Code section 1424

Private attorney under contract to government agency

People ex rel. Clancy v. Superior Court (1984) 161 Cal.App.3d 894, 899-900

Privilege against self-incrimination

Gwillim v. City of San Jose (9th Cir. 1991) 929 F.2d 465

Probable cause

duty of attorney when charges not supported
 LA 429 (1984)

Prosecutors

absolute immunity does not protect prosecutor for comments made to the media

Milstein v. Cooley (9th Cir. 2001) 257 F.3d 1004

absolute immunity for actions taken in the normal prosecutorial role

Doubleday v. Ruh (1993) 149 F.R.D. 601

absolute immunity for acts performed in scope of judicial process; qualified immunity for investigative or administrative acts

Weinstein v. Mueller (N.D. Cal. 1983) 563 F.Supp. 923

absolute immunity from liability for decision not to prosecute police officer cases

Roe v. City and County of San Francisco (9th Cir. 1997) 109 F.3d 578

absolute immunity may not be available against being sued for supervising or participating in investigations

Buckley v. Fitzsimmons (1993) 509 U.S. 259 [113 S.Ct. Rptr. 2606]

Conn v. Gabbert (1999) 526 U.S. 286 [119 S.Ct. 1292]

Roe v. City and County of San Francisco (9th Cir. 1997) 109 F.3d 578

Pitts v. Kern (1998) 17 Cal.4th 340 [70 Cal.Rptr.2d 823]

Pitts v. County of Kern (1996) 49 Cal.App.4th 1430 [57 Cal.Rptr.2d 471]

absolute immunity may not be available when alleged false statements were made in application for search warrant

*Fletcher v. Kalina (9th Cir. 1996) 93 F.3d 653

absolute immunity may not be available where prosecutor gives advice to the police

Burns v. Reed (1991) 500 U.S. 478 [111 S.Ct.1934]

Pitts v. Kern (1998) 17 Cal.4th 340 [70 Cal.Rptr.2d 823]

authorized by law to communicate with parties represented by counsel

75 Ops. Cal. Atty. Gen. 223 (10/8/92; No. 91-1205)

ATTORNEY OF RECORD

- communication with the media
Milstein v. Cooley (9th Cir. 2001) 257 F.3d 1004
conduct when he/she does not believe in case
LA 429 (1984)
deputy district attorney cannot assert attorney-client privilege as to documents prepared in official capacity when the attorney is subject of criminal investigation
People ex rel. Lockyer v. Superior Court (Pfingst) (2000) 83 Cal.App.4th 387 [99 Cal.Rptr.2d 646]
district attorney's statements in a press release are privileged pursuant to prosecutorial immunity principles
Ingram v. Flippo (1999) 74 Cal.App.4th 1280 [89 Cal.Rptr. 60]
duty to seek justice not convictions
People v. Rutherford (1975) 14 Cal.3d 399 [121 Cal.Rptr. 357]
People v. Dena (1972) 25 Cal.App.3d 1001 [102 Cal.Rptr. 357]
In re Ferguson (1971) 5 Cal.3d 525
for purposes of section 1983 claim, California county district attorney acted as state official when deciding whether to prosecute individual for criminal defense
Weinerv. San Diego County (9th Cir. 2000) 210 F.3d 1025
qualified immunity may not be available for executing search warrant against criminal defense attorney
Conn v. Gabbert (1999) 526 U.S. 286 [119 S.Ct. 1292]
state bar has authority and jurisdiction to discipline
Price v. Superior Court (1982) 30 Cal.3d 537
In re Bloom (1977) 19 Cal.3d 175
OR 94-003
use of courtroom to eavesdrop on confidential attorney-client communications requires severe sanctions
Robert Lee Morrow v. Superior Court (1994) 30 Cal.App.4th 1252 [36 Cal.Rptr.2d 210]; mod. at 31 Cal.App.4th 746f
Public defender
Uhl v. Municipal Court (1974) 37 Cal.App.3d 526 [112 Cal.Rptr. 478]
acts of privately retained counsel and publicly appointed counsel should be measured by the same standards of care, except as otherwise provided by statute
Barner v. Leeds (2000) 24 Cal.4th 676 [102 Cal.Rptr.2d 97]
appointment of deputy public defender by court to serve as "stand-by counsel" in the event defendant cannot continue with self-representation is impermissible under Government Code section 27706
Dreiling v. Superior Court (2000) 86 Cal.App.4th 380 [103 Cal.Rptr.2d 70]
Littlefield v. Superior Court (1993) 18 Cal.App.4th 856 [22 Cal.Rptr.2d 659]
conflict of interest
Aceves v. Superior Court (1996) 51 Cal.App.4th 584 [59 Cal.Rptr.2d 280]
Uhl v. Municipal Court (1974) 37 Cal.App.3d 526 [112 Cal.Rptr. 478]
-representation of one co-defendant by public defender and representation of other co-defendant by alternate public defender
People v. Christian (1996) 41 Cal.App.4th 986 [48 Cal.Rptr.2d 867]
CAL 2002-158
-three strikes cases
*Garcia v. Superior Court (1995) 40 Cal.App.4th 552 [46 Cal.Rptr.2d 913]
SD 1995-1
dependency proceeding
Carroll v. Superior Court (2002) 101 Cal.App.4th 1423 [124 Cal.Rptr.2d 891]
does not act under color of state law when lawyer for criminal defendant
Glover v. Tower (9th Cir. 1983) 700 F.2d 556, 558
does not enjoy "discretionary immunity" pursuant to Government Code section 820.2
Barner v. Leeds (2000) 24 Cal.4th 676 [102 Cal.Rptr.2d 97]
in-person contact with arrested person permissible
CAL 1977-42
not immune from legal malpractice under statute granting discretionary immunity to public employees
Barner v. Leeds (2000) 24 Cal.4th 676 [102 Cal.Rptr.2d 97]
not independent contractors for purposes of a government tort claim
Briggs v. Lawrence (1991) 230 Cal.App.3d 605 [281 Cal.Rptr. 578]
sanctions not imposed resulting from misleading emergency petition where factual omission resulted from mistake
Jones v. Superior Court (1994) 26 Cal.App.4th 92 [31 Cal.Rptr.2d 264]
Recording a conversation
city attorney recording a conversation pursuant to Penal Code section 633 while prosecuting misdemeanor cases
79 Ops. Cal. Atty. Gen. 221 (9/16/96; No. 96-304)
Release dismissal agreements
CAL 1989-106
Representation of criminal defendant by member of firm acting as city prosecutor
LA 453
Retaining private counsel for special services
Burum v. State Comp. Ins. Fund (1947) 30 Cal.2d 575 [184 P.2d 505]
Denio v. Huntington Beach (1943) 22 Cal.2d 580 [140 P.2d 392]
State Comp. Ins. Fund v. Riley (1937) 9 Cal.2d 126 [69 P.2d 953]
Jaynes v. Stockton (1961) 193 Cal.App.2d 47 [14 Cal.Rptr. 49]
Estate of Schnell (1947) 82 Cal.App.2d 170 [185 P.2d 854]
Rules of Professional Conduct, applicability to government attorneys
People v. Christian (1996) 41 Cal.App.4th 986 [48 Cal.Rptr.2d 867]
In re Lee G. (1991) 1 Cal.App.4th 17, 34 [1 Cal.Rptr.2d 375]
Civil Service Commission v. Superior Court (1984) 163 Cal.App.3d 70, 84
80 Ops. Cal. Atty. Gen. 36 (2/7/97; No. 96-301)
CAL 2002-158
When an attorney leaves employment of one firm
side switching
Henriksen v. Great American Savings and Loan (1992) 11 Cal.App.4th 109 [14 Cal.Rptr.2d 184]
Chambers v. Superior Court (1981) 121 Cal.App.3d 893, 899 [175 Cal.Rptr. 575]
LA 501
ATTORNEY OF RECORD [See Authority of attorney. Withdrawal from employment.]
ATTORNEY'S LIEN [See Fee, unpaid. Lien.]
Bankruptcy action
attorney's lien not payable in circumvention of the Bankruptcy Code
In re Monument Auto Detail, Inc. (9th Cir. BAP 1998) 226 B.R. 219 [33 Bankr.Ct.Dec. 419]
Charging lien
common law
-not recognized in California
Isrin v. Superior Court (1965) 63 Cal.2d 153 [15 Cal.Rptr. 320]
Jones v. Martin (1953) 41 Cal.2d 23 [256 P.2d 905]
Ex parte Kyle (1850) 1 Cal. 331
contract
Weiss v. Marcus (1975) 51 Cal.App.3d 590, 598 [124 Cal.Rptr. 297]
Client settlement
check issued only to client, but delivered to attorney who has a lien
OR 99-002

AUCTION

- failure of subsequent counsel to honor
 - liability for interference with prospective economic advantage
 - Levin v. Gulf Insurance Group (1998) 69 Cal.App.4th 1282 [82 Cal.Rptr.2d 228]
 - Pearlmutter v. Alexander (1979) 97 Cal.App.3d Supp.16 [158 Cal.Rptr. 762]
 - Client's award
 - improper
 - Cain v. State Bar (1978) 21 Cal.3d 523, 525 [146 Cal.Rptr. 737, 579 P.2d 1053]
 - Client's funds
 - LA(l) 1970-1
 - Client's papers
 - LA 48 (1927), SD 1977-3
 - no right to
 - Academy of Calif. Opt. Inc. v. Superior Court (1975) 51 Cal.App.3d 999, 1006 [124 Cal.Rptr. 668]
 - Weiss v. Marcus (1975) 51 Cal.App.3d 590 [124 Cal.Rptr. 297]
 - LA 330 (1972), LA 253 (1958), LA 197 (1952), LA 103 (1936), LA 48 (1927)
 - SF 1975-4
 - Common law liens
 - Academy of Calif. Opt. Inc. v. Superior Court (1975) 51 Cal.App.3d 999, 1006 [124 Cal.Rptr. 668]
 - Created by contract
 - Epstein v. Abrams (1997) 57 Cal.App.4th 1159 [67 Cal.Rptr.2d 555]
 - Haupt v. Charlie's Kosher Market (1941) 17 Cal.2d 843 [121 P.2d 627]
 - Gostin v. State Farm Ins. Co. (1964) 224 Cal.App.2d 319 [36 Cal.Rptr. 596]
 - Bartlett v. Pac. Nat. Bank (1952) 110 Cal.App.2d 683 [244 P.2d 91]
 - Wagner v. Sariotti (1943) 56 Cal.App.2d 693 [133 P.2d 430]
 - Tracy v. Ringle (1927) 87 Cal.App. 549 [262 P. 73]
 - In the Matter of Feldsott (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 754
 - OR 99-002
 - Holding client's funds
 - coerce fee payment
 - without lien or proper authority
 - McGrath v. State Bar (1943) 21 Cal.2d 737 [135 P.2d 1]
 - Independent action required to establish existence and amount of lien
 - Carroll v. Interstate Brands Corp. (2002) 99 Cal.App.4th 1168 [121 Cal.Rptr.2d 532]
 - Valenta v. Regents of University of California (1991) 231 Cal.App.3d 1465 [282 Cal.Rptr. 812]
 - Liens created by contract
 - nature and effect
 - Cetenko v. United California Bank (1982) 30 Cal.3d 528 [179 Cal.Rptr. 902, 638 P.2d 1299]
 - Valenta v. Regents of University of California (1991) 231 Cal.App.3d 1465 [282 Cal.Rptr. 812]
 - LA 496 (1998)
 - No duty of successor counsel to hold money in client trust account to honor prior attorney's lien
 - Shalant v. State Bar (1983) 33 Cal.3d 485 [189 Cal.Rptr. 374]
 - In the Matter of Respondent H (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 234
 - Notice of lien
 - Carroll v. Interstate Brands Corp. (2002) 99 Cal.App.4th 1168 [121 Cal.Rptr.2d 532]
 - Levin v. Gulf Insurance Group (1998) 69 Cal.App.4th 1282 [82 Cal.Rptr.2d 228]
 - Hansen v. Haywood (1986) 186 Cal.App.3d 350 [230 Cal.Rptr. 580]
 - Possessory
 - Hulland v. State Bar (1972) 8 Cal.3d 440 [105 Cal.Rptr. 152]
 - Isrin v. Superior Court (1965) 63 Cal.2d 153 [15 Cal.Rptr. 320]
 - Ex parte Kyle (1850) 1 Cal. 331
 - Weiss v. Marcus (1975) 51 Cal.App.3d 590 [124 Cal.Rptr. 297]
 - Spenser v. Spenser (1967) 252 Cal.App.2d [60 Cal.Rptr. 747]
 - Wagner v. Sariotti (1943) 56 Cal.App.2d 693 [133 P.2d 430]
 - client's files or papers
 - no right to
 - Academy of Calif. Opt. Inc. v. Superior Court (1975) 51 Cal.App.3d 999, 1006 [124 Cal.Rptr. 668]
 - Weiss v. Marcus (1975) 51 Cal.App.3d 590 [124 Cal.Rptr. 160]
 - LA 330 (1972), LA 253 (1958), LA 197 (1952), LA 103 (1936), LA 48 (1927), SF 1975-4
 - Priority of
 - Atascadero Factory Outlets, Inc. v. Augustini & Wheeler LLP (2000) 83 Cal.App.4th 717 [99 Cal.Rptr.2d 911]
 - Epstein v. Abrams (1997) 57 Cal.App.4th 1159 [67 Cal.Rptr.2d 555]
 - Cappa v. F & K Rock & Sand, Inc. (1988) 203 Cal.App.3d 172 [249 Cal.Rptr. 718]
 - Statutory liens
 - Los Angeles v. Knapp (1936) 7 Cal.2d 168 [60 P.2d 127]
- ## AUCTION
- Donate legal services through
 - CAL 1982-65, SD 1974-19
 - AUTHORITY OF ATTORNEY** [See Substitution of counsel.]
 - Alliance Bank v. Murray (1984) 161 Cal.App.3d 1 [207 Cal.Rptr. 233]
 - Acknowledge satisfaction of judgment
 - after judgment, upon payment of money claimed in action
 - Code of Civil Procedure section 283
 - After substitution
 - appearance carries presumption
 - Alliance Bank v. Murray (1984) 161 Cal.App.3d 1 [207 Cal.Rptr. 233]
 - attorney had no right to file proposed fee order after discharge and substitution out of case
 - In re Marriage of Read (2002) 97 Cal.App.4th 476 [118 Cal.Rptr.2d 497]
 - Agency
 - authority covers all ordinary procedural steps to bind client
 - Code of Civil Procedure section 283
 - Blanton v. Womancare, Inc. (1985) 38 Cal.3d 396 [212 Cal.Rptr. 151]
 - *In the Matter of Jennings (Review Dept. 1995) 3 Cal. State Bar Ct. Rptr. 337
 - Agency basis
 - Rule 7-103, Rules of Professional Conduct (operative until May 26, 1989)
 - Rule 2-100, Rules of Professional Conduct (operative as of May 27, 1989)
 - Bristschgi v. McCall (1953) 41 Cal.2d 138, 142 [257 P.2d 977]
 - Preston v. Hill (1875) 50 Cal. 43
 - CPI Builders, Inc. v. IMPCO Technologies, Inc. (2001) 94 Cal.App.4th 1167 [114 Cal.Rptr.2d 851]
 - Fresno v. Baboian (1975) 52 Cal.App.3d 753, 757 [125 Cal.Rptr. 332]
 - Yancho v. Kagan (1971) 22 Cal.App.3d 544, 549 [99 Cal.Rptr. 367]
 - Wilson v. Eddy (1969) 2 Cal.App.3d 613, 618 [82 Cal.Rptr. 826]
 - Pacific Tel. & Tel. Co. v. Fink (1956) 141 Cal.App.2d 332 [296 P.2d 843]
 - Nellis v. Massey (1952) 108 Cal.App.2d 724 [239 P.2d 509]
 - Redsted v. Weiss (1945) 71 Cal.App.2d 660 [163 P.2d 105]
 - Fidelity & Cas. Co. v. Abraham (1945) 70 Cal.App.2d 776 [161 P.2d 689]
 - Fleschler v. Strauss (1936) 15 Cal.App.2d 735 [60 P.2d 193]
 - Burns v. McCain (1930) 107 Cal.App. 291 [290 P.2d 623]
 - CAL 1989-111
 - Apparent authority as to procedural or tactical matters
 - Blanton v. Womancare, Inc. (1985) 38 Cal.3d 396 [212 Cal.Rptr. 151]
 - LA 502 (1999)

AUTHORITY OF ATTORNEY

Appeal

attorney cannot appeal without client's consent

In re Steven H. (2001) 86 Cal.App.4th 1023 [103 Cal.Rptr.2d 649]

attorney may file notice of appeal on behalf of deceased client
Code of Civil Procedure section 903

Attorney may bind client to stipulation without client's consent which does not affect issues central to the dispute

In re Marriage of Helsel (1988) 198 Cal.App.3d 332 [243 Cal.Rptr. 657]

Attorney of record must take legal steps

Epley v. Califro (1958) 49 Cal.2d 849, 854 [323 P.2d 91]

Goetz v. Superior Court (1958) 49 Cal.2d 784, 786 [322 P.2d 217]

People v. Merkouris (1956) 46 Cal.2d 540, 554

Boca etc. R.R. Co. v. Superior Court (1907) 150 Cal. 153, 157 [88 P. 718]

Toy v. Haskell (1900) 128 Cal. 558, 560 [61 P. 89]

Wylie v. Sierra Gold Co. (1898) 120 Cal. 485, 487

Elec. Utilities Co. v. Smallpage (1934) 137 Cal.App. 640 [31 P.2d 142]

Anglo California Trust Co. v. Kelly (1928) 95 Cal.App. 390 [272 P. 1080]

Koehler v. D. Ferrari & Co. (1916) 29 Cal.App. 487

Bind client

Blanton v. Womancare, Inc. (1985) 38 Cal.3d 396 [212 Cal.Rptr. 151]

Carroll v. Abbott Laboratories, Inc. (1982) 32 Cal.3d 892, 898-900 [187 Cal.Rptr. 592, 654 P.2d 775]

CPI Builders, Inc. v. IMPCO Technologies, Inc. (2001) 94 Cal.App.4th 1167 [114 Cal.Rptr.2d 851]

People v. Sims (1984) 158 Cal.App.3d 469, 483

*Ford v. State of California (1981) 116 Cal.App.3d 507, 516 [172 Cal.Rptr. 162]

Buchanan v. Buchanan (1979) 99 Cal.App.3d 587, 595 [160 Cal.Rptr. 577]

People v. Hy-Lond Enterprises, Inc. (1979) 93 Cal.App.3d 734 [155 Cal.Rptr. 880]

Kaslavage v. West Kern County Water District (1978) 84 Cal.App.3d 529, 536-537 [148 Cal.Rptr. 729]

CAL 2002-160

advise attorney for in propria persona litigant

LA 502 (1999)

to stipulation without consent

Corcoran v. Arouh (1994) 24 Cal.App.4th 310 [29 Cal.Rptr.2d 326]

In re Marriage of Helsel (1988) 198 Cal.App.3d 332 [243 Cal.Rptr. 657]

Bind client in action or proceeding

by agreement filed with clerk of court

Code of Civil Procedure section 283, par. 1

entered upon minutes of court

Code of Civil Procedure section 283, par. 1

to stipulation without consent

In re Marriage of Helsel (1988) 198 Cal.App. 332 [243 Cal.Rptr. 657]

Client

cannot be located

CAL 2002-160, CAL 1989-111, LA 441 (1987)

court's advice to client to follow attorney's advice

United States v. Joelson (1993) 7 F.3d 174

death of

-attorney may file notice of appeal on behalf of decedent

Code of Civil Procedure section 903

decides matters that affect substantive rights

Blanton v. Womancare, Inc. (1985) 38 Cal.3d 396 [212 Cal.Rptr. 151]

LA 502 (1999)

endorse client's name

-incapacity

People v. Bolden (1979) 99 Cal.App.3d 375 [160 Cal.Rptr. 268]

-on settlement check without authorization

Silver v. State Bar (1974) 13 Cal.3d 134, 144 [117 Cal.Rptr. 821, 528 P.2d 1157]

Montalto v. State Bar (1974) 11 Cal.3d 231, 235 [113 Cal.Rptr. 97, 520 P.2d 721]

Himmel v. State Bar (1971) 4 Cal.3d 786, 798 [94 Cal.Rptr. 825, 484 P.2d 993]

Tardiff v. State Bar (1971) 3 Cal.3d 903, 904 [92 Cal.Rptr. 301, 479 P.2d 661]

insane or incompetent clients may lack authority over substantive issues

LA 509 (2002)

retains the authority to settle the case without the lawyer's consent

LA 505 (2000)

Client's instructions intentionally ignored

In the Matter of Aguiluz (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 32

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Compelling client to follow advice

Purdy v. Pacific Automobile Ins. Co. (1984) 157 Cal.App.3d 59, 77-78 [203 Cal.Rptr. 524]

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Linsk v. Linsk (1969) 70 Cal.2d 272, 276 [74 Cal.Rptr. 544]

statutory reduction of client's control

People v. Davis (1984) 161 Cal.App.3d 796, 802 fn. 2

Control of litigation [See Trial conduct.]

People v. Sims (1984) 158 Cal.App.3d 469

Kim v. Orellana (1983) 145 Cal.App.3d 1024 [193 Cal.Rptr. 827]

Lovret v. Seyfarth (1972) 22 Cal.App.3d 841 [100 Cal.Rptr. 143]

Diamond Springs Lime Co. v. American River Constructors (1971) 16 Cal.App.3d 581 [94 Cal.Rptr. 200]

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LA 502 (1999)

acts contrary to law, court rule or public policy

San Francisco Lumber Co. v. Bibb (1903) 139 Cal. 325 [73 P. 864]

Oakland Raiders v. Berkeley (1977) 65 Cal.App.3d 623 [137 Cal.Rptr. 648]

Burrows v. California (1968) 260 Cal.App.2d 29 [66 Cal.Rptr. 868]

Robinson v. Sacramento County School Dist. (1966) 245 Cal.App.2d 278 [53 Cal.Rptr. 781]

Valdez v. Taylor Auto. Co. (1954) 129 Cal.App.2d 810 [278 P.2d 91]

Berry v. Chaplin (1946) 74 Cal.App.2d 652 [169 P.2d 442]

Los Angeles v. Harper (1935) 8 Cal.App.2d 552 [48 P.2d 75]

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Knowlton v. Mackenzie (1895) 110 Cal. 183 [42 P. 580]

Wherry v. Rambo (1950) 97 Cal.App.2d 569 [218 P.2d 142]

Davis v. Robinson (1942) 50 Cal.App.2d 700 [123 P.2d 894]

Spenserv. Barnes (1935) 6 Cal.App.2d 35 [43 P.2d 847]

Ely v. Liscomb (1914) 24 Cal.App. 224 [140 P.2d 1086]

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Linsk v. Linsk (1969) 70 Cal.2d 272 [74 Cal.Rptr. 544, 449 P.2d 760]

Smith v. Whittier (1892) 95 Cal. 279 [30 P. 529]

Diamond Springs Lime Co. v. Am. River Constructors (1971) 16 Cal.App.3d 581, 607 [94 Cal.Rptr. 200]

Duffy v. Griffith Co. (1962) 206 Cal.App.2d 780, 788 [24 Cal.Rptr. 161]

Bemer v. Bemer (1957) 152 Cal.App.2d 766, 771 [314 P.2d 114]

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- Redsted v. Weiss (1945) 71 Cal.App.2d 660, 663 [163 P.2d 105]
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 -of advice attorney for in propria persona litigant
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 criminal defense counsel can make all but a few fundamental decisions for defendant
People v. Welch (1999) 20 Cal.4th 701, 976 [85 Cal.Rptr.2d 203]
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 Business and Professions Code section 6140.5
Whittier Union High School District v. Superior Court (1977) 66 Cal.App.3d 504 [136 Cal.Rptr. 86]
 freedom from client's control
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Associated Indemnity Corp. v. Ind. Acc. Com. (1943) 56 Cal.App.2d 804, 808 [133 P.2d 698]
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Linsk v. Linsk (1969) 70 Cal.2d 272 [74 Cal.Rptr. 544, 449 P.2d 760]
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Tomerlin v. Canadian Ind. Co. (1964) 61 Cal.2d 638 [39 Cal.Rptr. 731, 394 P.2d 571]
Merritt v. Wilcox (1877) 52 Cal. 238
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Bice v. Stevens (1958) 160 Cal.App.2d 222, 231 [325 P.2d 244]
Pacific Tel. and Tel. Co. v. Fink (1956) 141 Cal.App.2d 332, 339 [296 P.2d 843]
Hoagland v. Chargin (1955) 134 Cal.App.2d 466, 473 [286 P.2d 931]
Jones v. Noble (1934) 3 Cal.App.2d 316, 320 [39 P.2d 486]
Clemens v. Gregg (1917) 34 Cal.App. 245, 253 [167 P. 294]
 matters collateral to litigation
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Helgeson v. Farmers Ins. Exch. (1953) 116 Cal.App.2d Supp. 925 [255 P.2d 484]
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- Estate of Huston (1997) 51 Cal.App.4th 1721 [60 Cal.Rptr.2d 217]
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assignment of power of attorney to heir hunter's attorney is
against public policy
- Estate of Wright (2001) 90 Cal.App.4th 228 [108
Cal.Rptr.2d 572]
- definition
 - Civil Code section 2410(a)
- duties
 - Civil Code section 2421(a)
- short form
 - Civil Code section 2450(1)

Presumption of authority

- Gagnon Co. v. Nevada Desert Inn (1955) 45 Cal.2d 448 [289
P.2d 466]
- Pac. Paving Co. v. Vizelich (1903) 141 Cal. 4 [74 P. 353]
- Security Loan and Trust Co. v. Estudillo (1901) 134 Cal. 166 [66
P. 257]
- Dale v. City Court (1951) 105 Cal.App.2d 602 [234 P.2d 110]
- Burns v. McCain (1930) 107 Cal.App.291 [290 P. 623]

Receive money claimed by client in action

- unless revocation of authority filed
 - Code of Civil Procedure section 283, par. 2
- upon payment of money claimed in action or after judgment
 - acknowledge satisfaction of judgment
 - Code of Civil Procedure section 283, par. 2
 - discharge claim
 - Code of Civil Procedure section 283, par. 2

Representation of a minor client in a dependency proceeding

- minors have the absolute right to make decisions concerning their
parental rights
- In re Steven H. (2001) 86 Cal.App.4th 1023 [103 Cal.Rptr.2d
649]
- LA 504 (2000)

Satisfaction of judgment, acknowledge

- after judgment
 - Code of Civil Procedure section 283, par. 2
- upon payment of money claimed in action
 - Code of Civil Procedure section 283, par. 2

Settlement

- Mallott & Peterson v. Director, Office of Workers' Compensation
Program (9th Cir. 1996) 98 F.3d 1170
- Burckhard v. Del Monte Corp. (1996) 48 Cal.App.4th 1912 [56
Cal.Rptr.2d 569]
- Levy v. Superior Court (1995) 10 Cal.4th 578 [41 Cal.Rptr.2d 878]
CAL 2002-160
- negotiations by advice attorney for in propria persona litigant
LA 502 (1999)

Settlement negotiated by clients enforceable despite lack of attorney approval

- In re Marriage of Hasso (1991) 229 Cal.App.3d 1174 [280
Cal.Rptr. 919]
- agreement providing that attorney waives specified fees if client
agrees not to accept a confidentiality clause in any settlement
permitted if client retains the authority to settle the case without
the lawyer's consent
- LA 505 (2000)

Stipulations

- attorney may bind client
 - if it does not affect issues central to the dispute
 - In re Marriage of Helsel (1988) 198 Cal.App. 332 [243
Cal.Rptr. 657]
 - when waiver or compromise of a fundamental right is not
involved
 - In re Marriage of Crook (1991) 235 Cal.App.3d 30
- construction and relief
 - special rules applicable
 - Ukiah v. Fones (1966) 64 Cal.2d 104, 107 [48 Cal.Rptr.
865, 410 P.2d 369]
 - Buckley v. Roche (1931) 214 Cal. 241 [4 P.2d 929]
 - Jackson v. Puget Sound Lumber Co. (1898) 123 Cal.
97, 100 [55 P.2d 788]

- Burrows v. California (1968) 260 Cal.App.2d 29, 33
[66 Cal.Rptr. 868]
- People v. Nolan (1917) 33 Cal.App. 493, 495 [165 P.
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-withdrawal or rescission

- Palmer v. Longbeach (1948) 33 Cal.2d 134 [199
P.2d 952]
- Moffitt v. Jordan (1900) 127 Cal. 628 [60 P. 175]
- Raymond v. McMullen (1891) 90 Cal. 122 [27 P. 21]
- Troxell v. Troxell (1965) 237 Cal.App.2d 147 [46
Cal.Rptr. 723]
- L.A. City School District v. Landier Inv. Co. (1960)
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- Loomis v. Loomis (1948) 89 Cal.App.2d 232 [201
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- Redsted v. Weiss (1945) 71 Cal.App.2d 660 [163
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- Brown v. Superior Court (1935) 10 Cal.App.2d 365
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- Harris v. Spinali Auto Sales, Inc. (1962) 202
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- Estate of Howe (1948) 88 Cal.App.2d 454 [199 P.2d
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- Bowden v. Green (1982) 128 Cal.App.3d 65 [180
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- Code of Civil Procedure section 283
- Estate of Stickelbaut (1960) 54 Cal.2d 390 [6 Cal.Rptr.
7, 353 P.2d 719]
- Palmer v. Long Beach (1948) 33 Cal.2d 134 [199 P.2d
952]
- Palmer v. Oakland (1978) 86 Cal.App.3d 39 [150
Cal.Rptr. 41]
- Japan Food Corp. v. Sacramento (1976) 58 Cal.App.3d
891 [130 Cal.Rptr. 392]
- Estate of Burson (1975) 51 Cal.App.3d 300 [124
Cal.Rptr. 105]
- Leonard v. Los Angeles (1973) 31 Cal.App.3d 473 [107
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- In re Marriage of Carter (1971) 19 Cal.App.3d 479 [97
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- People ex rel.Dept. Pub. Wks. v. Busick (1968) 259
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- Estate of Schmelz (1968) 259 Cal.App.2d 440, 442-446
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- Harris v. Spinali Auto Sales (1966) 240 Cal.App.2d 447
[49 Cal.Rptr. 610]
- Green v. Linn (1962) 210 Cal.App.2d 762, 767-769 [26
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- Fran-Well Heater Co. v. Robinson (1960) 182
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- Capital National Bank v. Smith (1944) 62 Cal.App.2d
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- Henning v. Wuest (1920) 48 Cal.App. 147 [191 P. 713]
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 - Leonard v. City of Los Angeles (1973) 31 Cal.App.3d
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- Smith v. Whittier (1892) 95 Cal. 279 [30 P. 529]
- Harrold v. Harrold (1950) 100 Cal.App.2d 601 [224 P.2d
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- Fresno City High School v. Dillon (1939) 34 Cal.App.2d
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- Beckett v. City of Paris Dry Goods Co. (1938) 26
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Exley v. Exley (1951) 101 Cal.App.2d 831, 836 [226 P.2d 662]
Sterling Drug Inc. v. Benatar (1950) 99 Cal.App.2d 393 [221 P.2d 965]
Asher v. Johnson (1938) 26 Cal.App.2d 403 [79 P.2d 457]
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Orr v. Ford (1929) 101 Cal.App. 694, 699 [282 P. 280]

Substitution

no independent pleading pursuant to Code of Civil Procedure section 284 need be filed before a complaint or other initial pleading is served

Baker v. Boxx (1991) 226 Cal.App.3d 1303

Test for, substantial rights

People v. Sumstine (1984) 36 Cal.3d 909, 922

Unauthorized representation

Standing Com. on Dis. of United States v. Ross (9th Cir. 1984) 735 F.2d 1168, 1172
In the Matter of Shinn (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 96
Zirbes v. Stratton (1986) 187 Cal.App.3d 1407 [232 Cal.Rptr. 653]

after substitution

Alliance Bank v. Murray (1984) 161 Cal.App.3d 1 [207 Cal.Rptr. 233]

-attorney had no right to file proposed fee order after discharge and substitution out of case

In re Marriage of Read (2002) 97 Cal.App.4th 476 [118 Cal.Rptr.2d 497]

"appearing" defined for purposes of Business and Professions Code section 6104

In the Matter of Lais (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 907

Verification

Probate Code section 21350 et. seq.

Attorney's use of pre-signed verification forms

Drociak v. State Bar (1991) 52 Cal.3d 1085

Client's signature on blank

LA 174 (1950)

AUTOMOBILE ACCIDENT CASE

Represent

daughter-passenger against her driver-husband after representing husband on traffic charge

SF 1973-6

owner-passenger against driver after representing both parties

LA(l) 1974-10

BANKRUPTCY [See Trustee.]

11 U.S.C. § 110(c) enacted to remedy widespread fraud and the unauthorized practice of law in the bankruptcy petition preparers industry (BPP)

In re Crawford (9th Cir. 1999) 194 F.3d 954 [3 Cal.Bankr.Ct.Rep. 46]

Attorney's fees

In re Auto Parts Club, Inc. (9th Cir. 1997) 211 B.R. 29

attorney who provided debtor with pre-petition legal services in marital dissolution matter lacks standing to complain her unpaid fee is not dischargeable

In re Dollaga (9th Cir. BAP 2001) 260 B.R. 493 [5 Cal. Bankr. Ct. Rep. 91]

attorney's fees are administrative expenses that must be paid first

In re Shorb (9th Cir. BAP 1989) 101 B.R. 185

attorney's fees are recoverable if they are linked to litigation seeking to enforce a contract

In re LCO Enterprises, Inc. (9th Cir. 1995) 180 B.R. 567 [27 Bankr.Ct.Dec. 201]

-fee provision in security agreement did not serve as ground for awarding fees and costs to oversecured creditor following its successful defense of adversary preference proceeding

In re Connolly (9th Cir. BAP 1999) 238 B.R. 475 [34 Bankr.Ct.Dec. 1219]

attorney's fees awarded as sanction for frivolous legal arguments not subject to automatic stay in attorney's bankruptcy proceeding

Berg v. Good Samaritan Hospital (9th Cir. 2000) 230 F.3d 1165

attorney's fees from discharge action are disallowed

Bankruptcy of Gee (9th Cir. 1994) 173 B.R. 189

attorney's fees from discharge action may/may not preclude appeal over attorney fees award

Hurley v. Bredehorn (1996) 44 Cal.App.4th 1700 [52 Cal.Rptr.2d 615]

chapter 7 bankruptcy

-attorney cannot use confidences of former client to challenge client's discharge of fees owed

In re Rindlisbacher (9th Cir. BAP 1998) 225 B.R. 180 [33 Bankr.Ct.Dec. 258, 2 Cal.Bankr.Ct.Rptr. 43]

-automatic stay

In re Hines (9th Cir. BAP 1998) 198 B.R. 769 [36 Collier Bankr.CAS2d 577]

In re Jastrem (9th Cir. 2001) 253 F.3d 438 [37 Bankr.Ct.Dec. 275]

-debtor's attorney may receive professional fees from bankruptcy estate for post-petition services

In re Century Cleaning Services, Inc. (9th Cir. BAP 1999) 195 F.3d 1053 [35 Bankr.Ct.Dec. 63]

In re Jastrem (9th Cir. 2001) 253 F.3d 438 [37 Bankr.Ct.Dec. 275]

-must benefit the estate

Bankruptcy of Hanson (9th Cir. 1994) 172 B.R. 67

-must file detailed proof of time spent in each role to receive fee award for services as trustee

In re Roderick Timber Co. (9th Cir. 1995) 185 B.R. 601

-pre-petition attorney fee agreement may be dischargeable

In re Jastrem (9th Cir. 2001) 253 F.3d 438 [37 Bankr.Ct.Dec. 275]

BAR ASSOCIATION

- chapter 9 (municipality bankruptcy)
 - fee agreement based on fixed hourly rate but provides for possible increase found valid
 - In re County of Orange (C.D. Cal. 1999) 241 B.R. 212 [4 Cal. Bankr. Ct. Rep. 117]
 - pre-petition attorney fee agreements may be dischargeable
 - Bankruptcy of Biggar (9th Cir. 1995) 185 B.R. 825
 - pre-petition debt is dischargeable
 - Bankruptcy of Zapanta (9th Cir. 1997) 204 B.R. 762
 - Bankruptcy of Biggar (9th Cir. 1997) 110 F.3d 685
 - contingent fee agreement
 - In re Reimers (9th Cir. 1992) 972 F.2d 1127
 - court's jurisdiction to amend award of attorney's fees under CCP § 187 and the inherent power of federal courts
 - In re Levander (9th Cir. 1999) 180 F.3d 1114
 - delay in bankruptcy court's approval of payment does not entitle enhanced attorney's fees
 - In re Music Merchants, Inc. (C.D. Cal. 1997) 208 B.R. 944
 - disgorgement of attorney fees against firm and attorney employee is proper
 - Bankruptcy of Sandoval (9th Cir. 1995) 186 B.R. 490
 - disgorgement of attorney fees against firm not proper where law firm representation was approved by court
 - In re S.S. Retail Stores (9th Cir. 2000) 216 F.3d 882 [36 Bankr.Ct.Dec. 79]
 - disgorgement of attorney fees is allowed after violations of bankruptcy code and rules
 - Bankruptcy of Basham (9th Cir. 1997) 208 B.R. 926
 - emergency nature of legal services provided before court appointment justifies fee award to former counsel
 - Bankruptcy of Larson (9th Cir. 1994) 174 B.R. 797
 - open book account attorneys fees claim not barred by statute of limitations
 - In re Roberts Farms (9th Cir. 1992) 980 F.2d 1248
 - security retainer agreements require appropriate fee application made to the court
 - In re Montgomery Drilling Co. (E.D. Cal. 1990) 121 B.R. 32
 - Bankruptcy petition preparers
 - code provision requiring public disclosure of petition preparers' social security numbers does not violate equal protection, due process, and privacy rights
 - In re Crawford (9th Cir. 1999) 194 F.3d 954 [3 Cal.Bankr.Ct. Rep. 46]
 - Conflict of interest
 - bankruptcy
 - In re Hines (9th Cir. BAP 1998) 198 B.R. 769 [36 Collier Bankr.CAS2d 577]
 - attorney for bankrupt estate not inherently in conflict if represent estate creditors against others in a separate action
 - Vivitar Corp. v. Broidy (1983) 143 Cal.App.3d 878 [192 Cal.Rptr. 281]
 - concurrent representation of clients with adverse interests
 - State Farm Mutual Automobile Insurance Company v. Federal Insurance Company (1999) 72 Cal.App.4th 1422 [86 Cal.Rptr.2d 20]
 - represent
 - bankrupt/creditor
 - LA 50 (1927)
 - receiver
 - party in divorce and
 - LA 51 (1927)
 - receiver/general creditor
 - LA 74 (1934)
 - Disciplinary action
 - abstention by a bankruptcy court from interference with a State Bar disciplinary proceeding
 - In re Franceschi (9th Cir. BAP 2001) 268 B.R. 219 [38 Bankr.Ct.Dec. 140]
 - attorney's bankruptcy not a bar to an order to pay restitution
 - Brookman v. State Bar (1988) 46 Cal.3d 1004
 - In the Matter of Petilla (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 231
 - In the Matter of Taggart (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 302
 - payment of costs to State Bar under Business & Professions Code § 6086.10 are dischargeable while payment of monetary sanctions under § 6086.13 are not
 - In re Taggart (2001) 249 F.3d 987
 - proceeding by Arizona Bar to discipline an Arizona attorney is exempted from bankruptcy automatic stay provisions
 - In re Wade (9th Cir. 1991) 948 F.2d 1122
 - Legal malpractice claims cannot be assigned by trustee of bankruptcy estate
 - Curtis v. Kellogg & Andelson (1999) 73 Cal.App.4th 492 [86 Cal.Rptr.2d 536]
 - Baum v. Duckor, Spradling & Metzger (1999) 72 Cal.App.4th 54 [84 Cal.Rptr.2d 703]
 - bankruptcy estate representative pursuing claim for the estate is not an assignee
 - Office of Statewide Health Planning and Development v. Musick, Peeler & Garrett (1999) 76 Cal.App.4th 830 [90 Cal.Rptr.2d 705]
 - Majority shareholder's attorney may represent debtor
 - In re Sidco (1993) 162 B.R. 299
 - Receiver entitled to attorney-client privilege
 - Shannon v. Superior Court (1990) 217 Cal.App.3d 986 [266 Cal.Rptr. 242]
 - Represent
 - bankrupt/creditor
 - LA 51 (1927)
 - Sanctions
 - Hedges v. Resolution Trust Corp. (1994) 32 F.3d 1360
 - Berg v. Good Samaritan Hospital (9th Cir. 2000) 230 F.3d 1165
 - In re Deville (9th Cir. BAP 2002) 280 B.R. 483
 - Trustee
 - attorney as bankruptcy trustee must file detailed proof of time spent in each role to receive fee award
 - In re Roderick Timber Co. (9th Cir. 1995) 185 B.R. 601
 - standing to sue corporate attorneys of "sham" corporation for malpractice
 - Loyd v. Paine Webber, Inc. (9th Cir. 2000) 208 F.3d 755
- BAR ASSOCIATION** [See Lay intermediaries.]
- Ethics committee
 - answers legal questions in newspaper
 - LA 191 (1952)
 - arbitration committee, duty to submit fee dispute to in Los Angeles
 - LA 309 (1969)
 - legal advice
 - answer questions about pending litigation
 - LA(l) 1966-9
 - answer questions of law
 - LA(l) 1970-1, LA(l) 1969-7, LA(l) 1969-4
- BAR EXAMINERS** [See Admission to the bar.]
- BARRATRY**
- Penal Code § 158
- BARTER**
- Legal services for other goods
 - CAL 1981-60, CAL 1977-44
 - LA(l) 1965-18
- BOND** [See Conflict of interest, bond.]
- Attorney acting as guarantor
 - CAL 1981-55
 - Fidelity
 - post for client
 - SF 1973-16
 - Guarantor of
 - clients' cost bond
 - attorney acting as
 - CAL 1981-55
 - Indemnity
 - counsel for indemnity company acts against assured by way of subrogation
 - LA(l) 1966-1
 - counsel for indemnity company represents assured in defense of bond
 - LA(l) 1966-1
- BONUS** [See Division of fees. Fees, Bonus. Division of Fees, With Non-lawyers, bonus.]

BROADCASTING

BROADCASTING [See Advertising. Solicitation of business. Trial publicity.]

BUSINESS ACTIVITY [See Advertising. Broadcasting. Conflict of interest, business or financial transaction. Educational activity. Practice of law. Publication. Solicitation of business. Specialization. Unauthorized practice of law.]

Accountant

Ibanez v. Florida Dept. of Business and Prof. Regulation, Bd. of Accountancy (1994) 512 U.S. 136 [114 S.Ct. 2084]
LA 351 (1976), LA 225 (1955), LA (I) 1965-4

employment of

SD 1974-17

partnership with

LA (I) 1959-5, SD 1974-17

share office with

LA (I) 1968-1

shows both professions on card or letterhead

LA 224 (1955)

-on sign

LA 225

Adjusting

LA 216 (1953)

Adviser to radio and television scripts

LA (I) 1947-5

Agent, attorney acting as

for actors, theatrical agency

LA 84 (1935)

for corporation

CAL 1968-13

-to solicit athletic contracts

CAL 1968-13

Aviation consultants

law firm associates with

CAL 1969-18

Brokerage

LA (I) 1962-4

Business and Professions Code

§ 6068

LA 396 (1982)

§ 6068(e)

General Dynamics Corp. v. Superior Court (1994) 7
Cal.4th 1164 [876 P.2d 487]

CAL 1994-135

LA 403 (1982), LA 400 (1982), LA 389 (1981)

Business operated by lawyer

discontinues active practice of law

-competition with former client

LA 98 (1936)

not engaged in active practice of law

-handling local matters gratuitously

LA 98 (1936)

Client's business

promotion of

-by attorney

LA 91 (1936)

Client's participation or work in

LA 176 (1950)

Collection agency

attorney operation of

Business and Professions Code section 6077.5

Fair Debt Collection Practices Act applies to attorneys
regularly engaged in consumer debt-collection

Heintz v. Jenkins (1995) 414 U.S. 291 [115 S.Ct.
1489]

-undertake collections for other attorneys

LA 124 (1939)

-when acts as counsel under fictitious name

LA 124 (1939)

-while operates law office

LA 124 (1939)

by attorney's spouse

LA 120 (1938)

Collections

LA (I) 1971-12, LA (I) 1967-7, LA (I) 1965-6, LA (I) 1965-3,
LA (I) 1952-1

by inactive lawyer

LA 105 (1936)

Competition with former client

LA 98 (1936)

in non-legal business

-where lawyer ceased to engage in active law practice

LA 98 (1936)

Conform to professional standards of attorney

in whatever capacity

Libarian v. State Bar (1944) 25 Cal.2d 314 [153 P.2d
739]

Jacobs v. State Bar (1933) 219 Cal. 59 [25 P.2d 401]

In the Matter of Priamos (Review Dept. 1998) 3 Cal.
State Bar Ct. Rptr. 824

CAL 1968-13

Corporation

agent for

-to solicit athletic contracts

CAL 1968-13

Donation of legal services [See Auction.]

Dual occupation

CAL 1982-69, CAL 1968-13

LA 477 (1994), LA 446 (1987), LA 413 (1983), LA 384
(1980), LA 351 (1975)

SD 1992-1, SD 1969-2

Collection agency and law practice

Business and Professions Code section 6077.5

Fair Debt Collection Practices Act applies to attorneys
regularly engaged in consumer debt-collection

Heintz v. Jenkins (1995) 414 U.S. 291 [115 S.Ct. 1489]
LA 124 (1939)

Escrow business

LA 205 (1953)

Exchange for professional services of others

lawyer participates in

CAL 1981-60, CAL 1977-44

LA (I) 1965-18

Insurance

LA 285 (1964), LA 227 (1955), LA 215 (1953), LA 142
(1943)

SD 1974-18

Investment counsel

LA (I) 1963-2

Legal document

annual report of business

LA (I) 1971-1

business prospectus

CAL 1969-19

LA (I) 1971-1

stockholder's report

LA (I) 1971-1

Legal forms sold

LA (I) 1976-11

Legal research and writing

LA 327 (1972)

Legal research service

operated by attorneys

-advertising of

LA 301 (1967)

-constitutes practice of law

LA 301 (1967)

-incorporation

LA 301 (1967)

Lending operations

LA (I) 1931-4

Malpractice litigation service by lawyer and physician's

LA 335 (1973)

Medicine

LA 331 (1973)

Notary public

LA 214 (1953), LA 206 (1953)

BUSINESS AND PROFESSIONS CODE

Partnership

interests sold

LA 199 (1952)

partners of a dissolved partnership have a fiduciary duty to complete the partnership's unfinished business and to act in the highest good faith

*Dickson, Carlson & Campillo v. Pole (2000) 83 Cal.App.4th 436 [99 Cal.Rptr.2d 678]

with non-lawyer

-defined

In the Matter of Bragg (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 615

-prohibited if any of partnership activities constitute practice of law

Rule 1-310, Rules of Professional Conduct

Promotion

by attorney

-of client's business

--posting bail bonds

LA 91 (1936)

Publishing [See Conflict of interest, literary rights. Publication.]

Real estate [See This heading, dual occupation.]

CAL 1982-69

LA 413 (1983), LA 384 (1980), LA 340 (1973) LA 282 (1963)

SD 1992-1, SD 1969-2

SF 1973-23

agent, attorney acting as

CAL 1982-69

LA 140 (1942)

board

-affiliate of attorney becoming

CAL 1968-15

broker, attorney acting as

CAL 1982-69, LA 140 (1942)

business

-attorney operating

LA 140 (1942)

--accepting legal business referred by

LA 140 (1942)

partnership with non-attorney broker

SF 1973-23

recommend own attorney to client

LA(l) 1976-9, LA(l) 1971-16

represent customers of own

LA 205 (1953), LA(l) 1975-2, LA(l) 1976-9

Referring clients to doctor for medical services for compensation prohibited

LA 443 (1988)

School to teach how to obtain government loans

LA(l) 1976-5

Stenography

LA 214 (1953)

Tax opinion letter about tax shelter prospective

SD 1984-1

Tax work

LA 236 (1956)

SD 1975-2

BUSINESS AND PROFESSIONS CODE [The entire text of the State Bar Act (Business and Professions Code sections 6000, et seq.) is reprinted at Part I A of this Compendium.]

§ 6000, et seq.

CAL 1979-48

§ 6002.1

In re Valinoti (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 498

In the Matter of Bailey (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 220

In the Matter of Clinton (Review Dept. 1994) 3 Cal. State Bar Ct. Rptr. 63

purpose of address requirement

In re Valinoti (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 498

§ 6007(b)(3)

Walker v. State Bar (1989) 49 Cal.3d 1107, 1119

Newton v. State Bar (1983) 33 Cal.3d 480, 483-484

Ballard v. State Bar (1983) 35 Cal.3d 274, 289

*In the Matter of Wolfram (Review Dept. 1995) 3 Cal. State Bar Ct. Rptr. 355

§ 6007(c)

Conway v. State Bar (1989) 47 Cal.3d 1107

In the Matter of Phillips (Review Dept. 1999) 4 Cal. State Bar Ct. Rptr. 47

In the Matter of Smith (Review Dept. 1995) 3 Cal. State Bar Ct. Rptr. 261

In the Matter of Jeffers (Review Dept. 1994) 3 Cal. State Bar Ct. Rptr. 211

In the Matter of Rose (Review Dept. 1994) 3 Cal. State Bar Ct. Rptr. 192

In the Matter of Mesce (Review Dept. 1994) 2 Cal. State Bar Ct. Rptr. 658

§ 6007(c)(4)

credit for period of involuntary inactive enrollment towards period of actual suspension

In the Matter of Torres (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 138

§ 6007(d)

In the Matter of Tiernan (Review Dept. 1996) 3 Cal. State Bar Ct. Rptr. 523

In the Matter of Broderick (Review Dept. 1994) 3 Cal. State Bar Ct. Rptr. 138

§ 6007(e)

In the Matter of Bailey (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 220

§ 6049

In the Matter of Member W (Review Dept. 1996) 3 Cal. State Bar Ct. Rptr. 535

§ 6049.1

In the Matter of Freydl (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 349

In the Matter of Kauffman (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 213

In the Matter of Jenkins (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 157

§ 6050

In the Matter of Respondent Q (Review Dept. 1994) 3 Cal. State Bar Ct. Rptr. 18

§ 6051.1

In the Matter of Respondent Q (Review Dept. 1994) 3 Cal. State Bar Ct. Rptr. 18

§ 6060(b)

In re Gossage (2000) 23 Cal.4th 1080 [99 Cal.Rptr.2d 130]

§ 6062(b)

In re Gossage (2000) 23 Cal.4th 1080 [99 Cal.Rptr.2d 130]

§ 6064

In re Gossage (2000) 23 Cal.4th 1080 [99 Cal.Rptr.2d 130]

§ 6067 [See Oath of attorney.]

CAL 1983-72, CAL 1979-51, LA 497 (1999)

§ 6068

Bates v. State Bar (1990) 51 Cal.3d 1056

CAL 1983-74, CAL 1983-72

LA 394 (1982)

"life story" fee agreements, waiver of attorney-client privilege

Maxwell v. Superior Court (1982) 30 Cal.3d 606 [180 Cal.Rptr. 177, 639 P.2d 248]

subdivision (a)

In re Morse (1995) 11 Cal.4th 184 [44 Cal.Rptr.2d 620]

Aronin v. State Bar (1990) 52 Cal.3d 276

In re Peavey (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 483

In the Matter of Nunez (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 196

In the Matter of Collins (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 1

In the Matter of Lilley (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 476

In the Matter of Mapps (Review Dept. 1990) 1 Cal. State Bar Ct. Rptr. 1

LA 502 (1999)

no discipline for a negligent mistake made in good faith
In the Matter of Respondent P (Review Dept. 1993) 2
 Cal. State Bar Ct. Rptr. 622, 631

subdivision (b)

Hanson v. Superior Court of Siskiyou County (2001) 91
 Cal.App.4th 75 [109 Cal.Rptr.2d 782]
People v. Chong (1999) 76 Cal.App.4th 232 [90
 Cal.Rptr.2d 198]
Datig v. Dove Books, Inc. (1999) 73 Cal.App.4th 964 [87
 Cal.Rptr.2d 719]
In the Matter of Moriarty (Review Dept. 1999) 4 Cal. State
 Bar Ct. Rptr. 9
In the Matter of Anderson (Review Dept. 1997) 3 Cal.
 State Bar Ct. Rptr. 775
In the Matter of Katz (Review Dept. 1995) 3 Cal. State Bar
 Ct. Rptr. 430
In the Matter of Jeffers (Review Dept. 1994) 3 Cal. State
 Bar Ct. Rptr. 211
In the Matter of Varakin (Review Dept. 1994) 3 Cal. State
 Bar Ct. Rptr. 179
 LA 502 (1999)

no discipline for factual statements unless the State Bar
 proves that such statements are false

Standing Committee on Discipline of the United States
District Court v. Yagman (9th Cir. 1995) 55 F.3d 1430
In the Matter of Anderson (Review Dept. 1997) 3 Cal.
 State Bar Ct. Rptr. 775

no discipline for rhetorical hyperbole incapable of being
 proven true or false

Standing Committee on Discipline of the United States
District Court v. Yagman (9th Cir. 1995) 55 F.3d 1430
In the Matter of Anderson (Review Dept. 1997) 3 Cal.
 State Bar Ct. Rptr. 775

subdivision (c)

Sorensen v. State Bar (1991) 52 Cal.3d 1036
Datig v. Dove Books, Inc. (1999) 73 Cal.App.4th 964 [87
 Cal.Rptr.2d 719]
In re Scott (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr.
 446
In the Matter of Lais (Review Dept. 2000) 4 Cal. State Bar
 Ct. Rptr. 112
In the Matter of Katz (Review Dept. 1995) 3 Cal. State Bar
 Ct. Rptr. 430
In the Matter of Varakin (Review Dept. 1994) 3 Cal. State
 Bar Ct. Rptr. 179
In the Matter of Fandey (Review Dept. 1994) 2 Cal. State
 Bar Ct. Rptr. 767
 LA 502 (1999)

subdivision (d)

Silberg v. Anderson (1990) 50 Cal.3d 205
Bryan v. Bank of America (2001) 86 Cal.App.4th 185 [103
 Cal.Rptr.2d 148]
Hanson v. Superior Court of Siskiyou County (2001) 91
 Cal.App.4th 75 [109 Cal.Rptr.2d 782]
Palm Valley Homeowners Association v. Design MTC
 (2000) 85 Cal.App.4th 553 [102 Cal.Rptr.2d 350]
Datig v. Dove Books, Inc. (1999) 73 Cal.App.4th 964 [87
 Cal.Rptr.2d 719]
In re Valinoti (Review Dept. 2002) 4 Cal. State Bar Ct.
 Rptr. 498
In the Matter of Chestnut (Review Dept. 2000) 4 Cal. State
 Bar Ct. Rptr. 166
In the Matter of Lais (Review Dept. 2000) 4 Cal. State Bar
 Ct. Rptr. 112
In the Matter of Moriarty (Review Dept. 1999) 4 Cal. State
 Bar Ct. Rptr. 9
In the Matter of Wyshak (Review Dept. 1999) 4 Cal. State
 Bar Ct. Rptr. 70
In the Matter of Katz (Review Dept. 1995) 3 Cal. State Bar
 Ct. Rptr. 430
In the Matter of Jeffers (Review Dept. 1994) 3 Cal. State
 Bar Ct. Rptr. 211
In the Matter of Shinn (Review Dept. 1992) 2 Cal. State
 Bar Ct. Rptr. 96
 CAL 1989-111, CAL 1972-30
 LA 502 (1999) LA 497 (1999), LA 464 (1991), OR 95-001

subdivision (e) [See Confidences of client.]

People v. Superior Court (Laff) (2001) 25 Cal.4th 703
 [107 Cal.Rptr.2d 323]
People ex rel. Dept. of Corporations v. Speedee Oil
Change Systems (1999) 20 Cal.4th 1135 [86 Cal.Rptr.2d
 816]
Frazier v. Superior Court (Ames) (2002) 97 Cal.App.4th
 23 [118 Cal.Rptr.2d 129]
Adams v. Aerojet-General Corp. (2001) 86 Cal.App.4th
 1324 [104 Cal.Rptr.2d 116]
Fox Searchlight Pictures, Inc., v. Paladino (2001) 89
 Cal.App.4th 294 [106 Cal.Rptr.2d 906]
Hooser v. Superior Court (2001) 84 Cal.App.4th 997
 [101 Cal.Rptr.2d 341]
Manfredi & Levine v. Superior Court (1998) 66
 Cal.App.4th 1128 [78 Cal.Rptr. 494]
In re Rindlisbacher (9th Cir. BAP 1998) 225 B.R. 180 [33
 Bankr.Ct.Dec. 258, 2 Cal.Bankr.Ct.Rep. 43]
Zador Corp. v. Kwan (1995) 31 Cal.App.4th 1285 [37
 Cal.Rptr.2d 754]
General Dynamics Corp. v. Superior Court (1994) 7
 Cal.4th 1164 [32 Cal.Rptr.2d 1]
In re Gillis (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr.
 387
In the Matter of Johnson (Review Dept. 2000) 4 Cal.
 State Bar Ct. Rptr. 179
 CAL 2002-159, CAL 2002-158, CAL 2001-157, CAL
 1997-150, CAL 1996-146, CAL 1993-133, CAL 1992-
 126, CAL 1989-111, CAL 1989-112, CAL 1984-76, CAL
 1981-58, CAL 1980-52, CAL 1979-50, CAL 1976-37,
 CAL 1971-25
 LA 506, LA 504 (2000), LA 502 (1999) LA 500 (1999),
 LA 498 (1999), LA 493, LA 491, LA 466, LA 456, LA 389
 (1981)
 OR 95-001, OR 95-002
 SD 1996-1, SD 1990-1
 SF 1999-2

subdivision (f)

United States v. Wunsch (9th Cir. 1996) 84 F.3d 1110
Standing Committee on Discipline of the United States
District Court v. Yagman (9th Cir. 1995) 55 F.3d 1430
Lebbos v. State Bar (1991) 53 Cal.3d 37
Van Sloten v. State Bar (1989) 48 Cal.3d 921, 925
Weber v. State Bar (1988) 47 Cal.3d 492, 500
Ainsworth v. State Bar (1988) 46 Cal.3d 1218, 1227
Dixon v. State Bar (1982) 32 Cal.3d 728, 735
Ramirez v. State Bar (1980) 28 Cal.3d 402, 404, 406
Snyder v. State Bar (1976) 18 Cal.3d 286, 292
Hanson v. Superior Court of Siskiyou County (2001) 91
 Cal.App.4th 75 [109 Cal.Rptr.2d 782]
Hawk v. Superior Court (1974) 42 Cal.App.3d 108, 129
In the Matter of Wyshak (Review Dept. 1999) 4 Cal.
 State Bar Ct. Rptr. 70
In the Matter of Yagman (Review Dept. 1997) 3 Cal.
 State Bar Ct. Rptr. 788
In the Matter of Anderson (Review Dept. 1997) 3 Cal.
 State Bar Ct. Rptr. 775
In the Matter of Varakin (Review Dept. 1994) 3 Cal.
 State Bar Ct. Rptr. 179
 applies to advancement of prejudicial facts, but perhaps
 not prejudicial intimations
In the Matter of Torres (Review Dept. 2000) 4 Cal.
 State Bar Ct. Rptr. 138
 unconstitutional vagueness of "offensive personality"
United States v. Wunsch (9th Cir. 1996) 84 F.3d
 1110
In the Matter of Anderson (Review Dept. 1997) 3 Cal.
 State Bar Ct. Rptr. 775

subdivision (g)

Sorensen v. State Bar (1991) 52 Cal.3d 1036 [804 P.2d
 44]
In re Scott (Review Dept. 2002) 4 Cal. State Bar Ct.
 Rptr. 446

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- In the Matter of Wyshak (Review Dept. 1999) 4 Cal. State Bar Ct. Rptr. 70
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- subdivision (h)
Waltz v. Zumwalt (1985) 167 Cal.App.3d 835, 837 [213 Cal.Rptr. 529]
 CAL 1981-64, CAL 1970-23
- subdivision (i)
Friedman v. State Bar (1990) 50 Cal.3d 235 [786 P.2d 359]
In the Matter of Bailey (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 220
In the Matter of Lais (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 907
In the Matter of Johnston (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 585
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- subdivision (m)
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In the Matter of Torres (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 138
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- In the Matter of Respondent X (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 592
- subdivision (o)(3)
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- § 6082
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§ 6101

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In the Matter of Bouyer (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 888)

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§ 6102

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summary disbarment requirement not retroactive

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In the Matter of Mapps (Review Dept. 1990) 1 Cal. State Bar Ct. Rptr. 1

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CAL 1979-51, CAL 1970-23

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§ 6125

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- § 6131
 CAL 1993-128
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In the Matter of Langfus (Review Dept. 1994) 3 Cal. State Bar Ct. Rptr. 161
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- § 6146
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- § 6147(a)(2)
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Rubin v. Green (1993) 4 Cal.4th 1187 [17 Cal.Rptr.2d 828]
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- § 6157 [See Advertising]
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 OR 99-002
- § 6202
 LA 498 (1999)
- § 6211(a)
 IOLTA interest income is private property of owner of principle for purposes of Takings Clause
Phillips v. Washington Legal Foundation (1998) 524 U.S. 156 [118 S.Ct. 1925]
- § 6400 et seq.
 LA 502 (1999)

BUSINESS DEALINGS WITH CLIENT [See Attorney-client relationship. Business activity.]

- Rule 5-101, Rules of Professional Conduct (operative until May 26, 1989)
 Rule 3-300, Rules of Professional Conduct (operative as of May 27, 1989)

CALIF. PROFESSIONAL RESPONSIBILITY EXAMINATION

- Failure to pass within the required time
In the Matter of Posthuma (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 813
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- Business and Professions Code section 6068 (d)
 Rule 7-105, Rules of Professional Conduct (operative until May 26, 1989)
 Rule 5-200, Rules of Professional Conduct (operative as of May 27, 1989)

CERTIFICATION

Declaration

false election

Johnson v. State Bar (1937) 10 Cal.2d 212 [73 P.2d 1191]

Duty of

in admission proceedings

Greene v. Committee of Bar Examiners (1971) 4 Cal.3d 189 [93 Cal.Rptr. 24, 480 P.2d 976]

Bernstein v. Committee of Bar Examiners (1968) 69 Cal.2d 90, 107 [70 Cal.Rptr. 106, 443 P.2d 570]

Langert v. State Bar (1954) 43 Cal.2d 636, 642 [276 P.2d 596]

in attorney disciplinary proceedings

Barreiro v. State Bar (1970) 2 Cal.3d 912, 926 [88 Cal.Rptr. 192, 471 P.2d 992]

Honoroff v. State Bar (1958) 50 Cal.2d 202, 210 [323 P.2d 1003]

Burns v. State Bar (1955) 45 Cal.2d 296, 303 [288 P.2d 514]

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In the Matter of Chestnut (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 166

In the Matter of Johnson (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 179

False application

immigration matter

Weir v. State Bar (1979) 23 Cal.3d 564, 572 [152 Cal.Rptr. 921, 591 P.2d 19]

Misleading

concealment of a material fact is as misleading as an overtly false statement

Di Sabatino v. State Bar (1980) 27 Cal.3d 159, 162 [162 Cal.Rptr. 458]

Griffis v. S.S. Kresge Company (1984) 150 Cal.App.3d 491 [197 Cal.Rptr. 771]

In the Matter of Chestnut (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 166

debtors

-by final notice before suit

LA 19 (1922)

firm name

CAL 1997-150, CAL 1986-90, CAL 1971-27

public

-partnership name when no partnership exists

CAL 1971-27

Misstatements

affirmative

-prohibited in any context

In re Kristovich (1976) 18 Cal.3d 468 [134 Cal.Rptr. 409, 556 P.2d 771]

To judge

attempt to deceive immigration judge

In re Valinoti (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 498

deceive about identity of client

Rule 7-105(2), Rules of Professional Conduct (operative until May 26, 1989)

Rule 5-200, Rules of Professional Conduct (operative as of May 27, 1989)

LA(l) 1965-11

distortions of record

Amstar Corp. v. Envirotech Corp. (9th Cir. 1984) 730 F.2d 1476

failing to correct a judge's misapprehension of material fact

Snyder v. State Bar (1976) 18 Cal.3d 286 [133 Cal.Rptr. 864, 555 P.2d 1104]

failing to notify of opposing counsel's request for continuance

Grove v. State Bar (1965) 63 Cal.2d 312 [46 Cal.Rptr. 513]

failure of law firm to disclose corporate client's suspended status is sanctionable

Palm Valley Homeowners Association v. Design MTC (2000) 85 Cal.App.4th 553 [102 Cal.Rptr.2d 350]

false representation about personal service of opposing party

In the Matter of Chestnut (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 166

false statements

In the Matter of Phillips (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 315

no duty to disclose assistance to an in propria persona litigant unless a court rule requires disclosure

LA 502 (1999)

quotations containing deletions

Amstar Corp. v. Envirotech Corp. (9th Cir. 1984) 730 F.2d 1476

requesting or agreeing to trial date when attorney does not intend to commence trial on that date

CAL 1972-30

withdrawal from representation of a minor client

LA 504 (2000)

To opposing counsel

Amstar Corp. v. Envirotech Corp. (9th Cir. 1984) 730 F.2d 1476

Hallinan v. State Bar (1948) 33 Cal.2d 246 [200 P.2d 787] CAL 1967-11

In the Matter of Dahlz (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 269

In the Matter of Phillips (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 315

deal honestly and fairly with opposing counsel

Wasmann v. Seidenberg (1988) 202 Cal.App.3d 752 [248 Cal.Rptr. 744]

disclosure of death of client

-during settlement negotiation

LA 300 (1967)

failure of law firm to disclose corporate client's suspended status is sanctionable

Palm Valley Homeowners Association v. Design MTC (2000) 85 Cal.App.4th 553 [102 Cal.Rptr.2d 350]

settlement negotiations

-disclosure of death of client

LA 300 (1967)

To opposing party

advising opposing party of that party's mistake of law affecting settlement

LA 380 (1979)

of contribution to campaign committee of presiding judge in case

LA 387 (1981)

Volunteer facts

OR 95-001

failing to volunteer harmful facts

Snyder v. State Bar (1976) 18 Cal.3d 286 [133 Cal.Rptr. 864, 555 P.2d 1104]

incumbent upon attorney, not criminal defendant personally

Crayton v. Superior Court (1985) 165 Cal.App.3d 443, 450-451 [211 Cal.Rptr. 605]

to opposing counsel

CAL 1967-11

CERTIFICATION

Of law corporations [See Law Corporations.]

Of law students [See Practical training of law students.]

Of legal specialists [See Legal Specialization.]

CHAMPERTY AND MAINTENANCE [See, Barratry. Choses of Action.]

Third-party funding of lawsuit in exchange for interest in proceeds distinguished from buying a claim

LA 500 (1999)

CHILD CUSTODY

Disclosure to court of conflict between client and child

suggest appointment of separate counsel to court

CAL 1976-37

Representation of a minor child in a dependency proceeding

LA 504 (2000)

CHILD SUPPORT

Communicate with other party about

LA(l) 1958-3, SD 1972-5

Contingent fee for collecting

LA 275 (1963), LA 263 (1959), LA(l) 1969-1

Counsel for one party in divorce who holds trust fund executes against other's share for child support

LA(l) 1971-15

CHOSES OF ACTION

Failure of attorney to pay

Business and Professions Code section 6143.5

Overdue

CAL 1983-72

Stipulated order of foreign court does not modify prior California child support when modification issue not raised or ruled on

In re Marriage of Ward (1994) 29 Cal.App.4th 1452

CHOSES OF ACTION

Buying of

with intent to bring suit on

Business and Professions Code section 6129

Third-party funding of lawsuit in exchange for interest in proceeds distinguished from buying a claim

LA 500 (1999)

CLASS ACTION

Absent class members not liable for employer's attorney's fees in overtime dispute

Earley v. Superior Court (2000) 79 Cal.App.4th 1420 [95 Cal.Rptr.2d 57]

Attorney fee awards in federal securities fraud actions must be reasonable in relation to the plaintiffs' recovery

Powers v. Eichen (9th Cir. 2000) 229 F.3d 1249

Attorney's fees

awarded pursuant to Civil Code section 1717

Acree v. General Motors Acceptance Corp. (2001) 92 Cal.App.4th 385 [112 Cal.Rptr.2d 99]

fee allocation among co-counsel subject to court approval

In re FPI/Agretech Securities Litigation (9th Cir. 1997) 105 F.3d 469

fees paid directly to plaintiff's counsel by defendant pursuant to ADEA's fee-shifting provision is taxable income to plaintiff

Sinyard v. Commissioner of Internal Revenue (9th Cir. 2001) 268 F.3d 756

for securities class action suits should be based on individual case risk

In re Quantum Health Resources, Inc. (C.D. Cal. 1997) 962 F.Supp. 1254

Iodestar adjustment based on benefit conferred on class by class counsel

Lealao v. Beneficial California Inc. (2000) 82 Cal.App.4th 19 [97 Cal.Rptr.2d 797]

Iodestar multiplier reduction is justified where amount of time attorney spent on case was unreasonable and duplicative

Thayer v. Wells Fargo Bank (2001) 92 Cal.App.4th 819, mod. at 93 Cal.App.4th 324A [112 Cal.Rptr.2d 284]

no abuse of discretion where district court failed to increase the fee award to account for the class members' view of the requested fee award because there was an early settlement; the court used the lodestar method and applied a 1.5 multiplier for counsel's 100% success rate

Fischel v. Equitable Life Assurance Society of the U.S. (9th Cir. 2002) 307 F.3d 997

should be adequate to promote

Feuerstein v. Burns (S.D. Cal. 1983) 569 F.Supp. 268, 271

standing to appeal award of

Lobatz v. U.S. West Cellular (9th Cir. 2000) 222 F.3d 1142 under Code of Civil Procedure section 916

-former attorneys enjoined from prosecuting suit for fees against litigants while judgment was pending on appeal

Franklin & Franklin v. 7-Eleven Owners for Fair Franchising (2000) 85 Cal.App.4th 1168 [102 Cal.Rptr.2d 770]

Communication with potential members of class [See Advertising. Solicitation of business.]

Gulf Oil Company v. Bernard (1981) 452 U.S. 89 [101 S.Ct. 2193]

In re McKesson HBOC, Inc. Securities Litigation (N.D. Cal. 2001) 126 F.Supp.2d 1239

Howard Gunty Profit Sharing Plan, et al. v. Superior Court (Greenwood) (2001) 88 Cal.App.4th 572 [105 Cal.Rptr.2d 896]

Atari, Inc. v. Superior Court (1985) 166 Cal.App.3d 867, 871-873 [122 Cal.Rptr. 773]

LA(l) 1966-7, LA(l) 1974-2

Conflict of interest

class counsel offers to dismiss case if defendant makes multi-million dollar payment to attorney personally

Cal Pak Delivery, Inc. v. United Parcel Service Inc. (1997) 52 Cal.App.4th 1

defendant agrees to hire class counsel to monitor the proposed settlement agreement if approved

Linney v. Cellular Alaska Partnership (9th Cir. 1998) 151 F.3d 1234

duty of class counsel runs to the class and, in the event of conflicts, withdrawal is the appropriate course to take

7-Eleven Owners for Fair Franchising v. The Southland Corporation (2000) 85 Cal.App.4th 1135 [102 Cal.Rptr.2d 277]

withdrawal by counsel who previously represented members opposed to the settlement, then later represented those in favor, was not improper

7-Eleven Owners for Fair Franchising v. The Southland Corporation (2000) 85 Cal.App.4th 1135 [102 Cal.Rptr.2d 277]

Duty to communicate with members of class to correct erroneous impression

LA(l) 1966-13

Federal Rule of Procedure 23

LA 481

no per se rule that continued participation by previous class counsel, whose conflict of interest led to denial of class certification, constitutes inadequate representation

Linney v. Cellular Alaska Partnership (9th Cir. 1998) 151 F.3d 1234 [41 Fed.R.Serv.3d 1079]

Former member who opted out of class is not class representative and has no right to the class action papers

LA 481

Organization of [See Solicitation of business, communicate information about claims or actions in law to parties; by lay entity, group representation.]

client solicits participation

LA(l) 1971-13

lawyer solicits participation

LA(l) 1966-7

Procedure for class action

LA 481

Standing of objecting class member in securities fraud settlement is not needed for reconsideration and reduction of attorney fees award to class

Zucker v. Occidental Petroleum (9th Cir. 1999) 192 F.3d 1323

Unnamed class member who failed to intervene at trial in a federal securities fraud action had standing to appeal the trial court's award of attorney fees

Powers v. Eichen (9th Cir. 2000) 229 F.3d 1249

CLIENT [See Attorney-client relationship. Candor. Confidences of the client. Conflict of interest, client.]

Defined

Evidence Code section 951

Moeller v. Superior Court (1997) 16 Cal.4th 1124 [69 Cal.Rptr.2d 317]

State Farm Fire and Casualty Co. v. Superior Court (1997) 54 Cal.App.4th 625 [62 Cal.Rptr.2d 834]

Sky Valley Limited Partnership & Tang Industries v. ATX Sky Valley, Ltd. (1993) 150 F.R.D. 648

CLIENT SECURITY FUND

Business and Professions Code section 6140.5

Saleeby v. State Bar (1985) 39 Cal.3d 547 [216 Cal.Rptr. 367]

Alvarado Community Hospital v. Superior Court (1985) 173 Cal.App.3d 476, 483-484 [219 Cal.Rptr. 52]

In the Matter of Jaurequi (Review Dept. 1999) 4 Cal. State Bar Ct. Rptr. 56

CLIENTS' TRUST ACCOUNT

CLIENTS' TRUST ACCOUNT

Business and Professions Code section 6210 et seq.
Code of Civil Procedure sections 283, par. 2, 1518
Rule 8-101, Rules of Professional Conduct (operative until May 26, 1989)
Rule 4-100, Rules of Professional Conduct (operative as of May 27, 1989)
State Bar of California. Legal Services Trust Fund Program
[See also Handbook on Client Trust Accounting For California Attorneys]

Accounting

Business and Professions Code section 6091

failure to keep adequate records

Friedman v. State Bar (1990) 50 Cal.3d 235
Matthew v. State Bar (1989) 49 Cal.3d 784
Fitzsimmons v. State Bar (1983) 34 Cal.3d 327 [193 Cal.Rptr. 896, 667 P.2d 700]
In the Matter of Lantz (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 126
In the Matter of Fonte (Review Dept. 1994) 2 Cal. State Bar Ct. Rptr. 752
In the Matter of Collins (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 1

failure to make to client

Friedman v. State Bar (1990) 50 Cal.3d 235
Silva-Vidor v. State Bar (1989) 49 Cal.3d 1071
Guzzetta v. State Bar (1987) 43 Cal.3d 962 [239 Cal.Rptr. 675]
Alberton v. State Bar (1987) 43 Cal.3d 638 [238 Cal.Rptr. 374]
Monroe v. State Bar (1961) 55 Cal.2d 145, 147-149 [10 Cal.Rptr. 257, 358 P.2d 529]
Egan v. State Bar (1956) 46 Cal.2d 370, 371-373 [294 P.2d 949]
Clark v. State Bar (1952) 39 Cal.2d 161, 169 [246 P.2d 1]
In re Valinoti (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 498
In the Matter of Phillips (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 315
In the Matter of Johnson (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 179
In the Matter of Lantz (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 126
In the Matter of Doran (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 871
In the Matter of Kroff (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 838
In the Matter of Yagman (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 788
In the Matter of Steele (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 708
In the Matter of Aulakh (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 690
In the Matter of Kaplan (Review Dept. 1996) 3 Cal. State Bar Ct. Rptr. 547
In the Matter of Cacioppo (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 128
In the Matter of Shinn (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 96
-attorney claims monies are non-refundable retainer
Dixon v. State Bar (1985) 39 Cal.3d 335 [216 Cal.Rptr. 432, 702 P.2d 590]
In the Matter of Fonte (Review Dept. 1994) 2 Cal. State Bar Ct. Rptr. 752
-attorneys claims oral permission to invest client's funds
Himmel v. State Bar (1971) 4 Cal.3d 786 [94 Cal.Rptr. 825, 484 P.2d 993]
-duty to inform client that he has been named as a defendant due to attorney's accounting
Shalant v. State Bar (1983) 33 Cal.3d 485 [189 Cal.Rptr. 374, 658 P.2d 737]
-failure to answer repeated client demands
Jackson v. State Bar (1979) 25 Cal.3d 398 [158 Cal.Rptr. 869, 600 P.2d 1326]

-failure to report and transmit to clients checks from insurance company

Most v. State Bar (1967) 67 Cal.2d 589 [63 Cal.Rptr. 265, 432 P.2d 953]

-funds collected with repeated failure to notify client

In re Smith (1967) 67 Cal.2d 460 [62 Cal.Rptr. 615, 432 P.2d 231]

-habitual failure to account to clients results in disbarment

Tardiff v. State Bar (1971) 3 Cal.3d 903 [92 Cal.Rptr. 301, 479 P.2d 661]

-misappropriation and moral turpitude found when attorney fails to answer client inquiries

Murray v. State Bar (1985) 40 Cal.3d 575 [220 Cal.Rptr. 667, 709 P.2d 480]

-misappropriation and moral turpitude found when attorney deceived his client by overreaching when client had limited English-speaking ability

In the Matter of Blum (Review Dept. 1994) 3 Cal. State Bar Ct. Rptr. 170

-obtaining and converting settlement proceeds without client's knowledge

Weir v. State Bar (1979) 23 Cal.3d 564 [152 Cal.Rptr. 921, 591 P.2d 19]

-prior violation's effect on petition to reinstate disbarred attorney

Tardiff v. State Bar (1980) 27 Cal.3d 395 [165 Cal.Rptr. 829, 612 P.2d 919]

-receipt of settlement check not reported to client

Phillips v. State Bar (1975) 14 Cal.3d 492 [121 Cal.Rptr. 605, 535 P.2d 733]

-restitution as appropriate sanction for failure to report receipt of settlement check

Montalto v. State Bar (1974) 11 Cal.3d 231 [113 Cal.Rptr. 97, 520 P.2d 721]

-sanctions

--disbarment

Ridley v. State Bar (1972) 6 Cal.3d 551, 560-561 [99 Cal.Rptr. 873, 493 P.2d 105]

Egan v. State Bar (1956) 46 Cal.2d 370 [294 P.2d 949]

Narlian v. State Bar (1943) 21 Cal.2d 876 [136 P.2d 553]

--public reprimand

Black v. State Bar (1962) 57 Cal.2d 219 [18 Cal.Rptr. 518, 368 P.2d 118]

--suspension

McCray v. State Bar (1985) 38 Cal.3d 257 [211 Cal.Rptr. 691, 696 P.2d 83]

Mack v. State Bar (1970) 2 Cal.3d 440, 447 [85 Cal.Rptr. 625, 467 P.2d 225]

Sunderlin v. State Bar (1944) 33 Cal.2d 785 [205 P.2d 382]

-services not performed for monies advanced

Ridley v. State Bar (1972) 6 Cal.3d 551 [99 Cal.Rptr. 873, 493 P.2d 105]

-timeliness of account when attorney's office is struck by a fire

In the Matter of Shinn (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 96

-trust account never established since attorney claims all monies as non-refundable retainer

Mrakich v. State Bar (1973) 8 Cal.3d 896 [106 Cal.Rptr. 497, 506 P.2d 633]

-trust accounts with no records kept as deemed a "sham"

Mack v. State Bar (1970) 2 Cal.3d 440 [85 Cal.Rptr. 625, 467 P.2d 225]

-violation occurs when non-segregated funds lose their separate character

Black v. State Bar (1962) 57 Cal.2d 219

-warrants discipline even if no financial loss to client

McCray v. State Bar (1985) 38 Cal.3d 257 [211 Cal.Rptr. 691, 696 P.2d 83]

CLIENTS' TRUST ACCOUNT

- fiduciary duty to inform client
 - Shalant v. State Bar (1983) 33 Cal.3d 485 [189 Cal.Rptr. 374]
- notice to client of receipt of funds on client's behalf
 - Alberton v. State Bar (1987) 43 Cal.3d 638 [238 Cal.Rptr. 374]
 - Most v. State Bar (1967) 67 Cal.2d 589, 597 [63 Cal.Rptr. 265, 432 P.2d 953]
 - In re Smith (1967) 67 Cal.2d 460, 463
- Advance deposit
 - Securities and Exchange Commission v. Interlink Data Network of Los Angeles (9th Cir. 1996) 77 F.3d 1201
- Advance for legal fees
 - T & R Foods, Inc. v. Rose (1996) 47 Cal.App.4th Supp. 1 [56 Cal.Rptr.2d 41]
 - In re Montgomery Drilling Co. (E.D. Cal. 1990) 121 B.R. 32
 - Katz v. Workers' Comp. Appeals Bd. (1981) 30 Cal.3d 353, 356 [178 Cal.Rptr. 815, 636 P.2d 1153]
 - Baranowski v. State Bar (1979) 24 Cal.3d 153, 163-164 [154 Cal.Rptr. 752, 593 P.2d 613]
- advance payment retainer distinguished from true retainer
 - T & R Foods, Inc. v. Rose (1996) 47 Cal.App.4th Supp. 1 [56 Cal.Rptr.2d 41]
 - In re Montgomery Drilling Co. (E.D. Cal. 1990) 121 B.R. 32
 - In the Matter of Phillips (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 315
- distinguished from retainer fee
 - T & R Foods, Inc. v. Rose (1996) 47 Cal.App.4th Supp. 1 [56 Cal.Rptr.2d 41]
 - In re Montgomery Drilling Co. (E.D. Cal. 1990) 121 B.R. 32
 - Baranowski v. State Bar (1979) 24 Cal.3d 153, 164 fn.4 [154 Cal.Rptr. 752, 593 P.2d 613]
 - In the Matter of Fonte (Review Dept. 1994) 2 Cal. State Bar Ct. Rptr. 752
 - SF 1980-1
- failure to return unearned portion
 - Rule 2-111(A)(3), Rules of Professional Conduct (operative until May 26, 1989)
 - Rule 3-700(D)(2), Rules of Professional Conduct (operative as of May 27, 1989)
 - T & R Foods, Inc. v. Rose (1996) 47 Cal.App.4th Supp. 1 [56 Cal.Rptr.2d 41]
 - Matthew v. State Bar (1989) 49 Cal.3d 784
 - Pineda v. State Bar (1989) 49 Cal.3d 753
 - Bambic v. State Bar (1985) 40 Cal.3d 314 [219 Cal.Rptr. 489]
 - Dixon v. State Bar (1985) 39 Cal.3d 335 [216 Cal.Rptr. 432]
 - Finch v. State Bar (1981) 28 Cal.3d 659, 664 [170 Cal.Rptr. 629, 621 P.2d 1153]
 - Baranowski v. State Bar (1979) 24 Cal.3d 153, 163 [154 Cal.Rptr. 752, 593 P.2d 613]
 - Lester v. State Bar (1976) 17 Cal.3d 547 [131 Cal.Rptr. 225, 551 P.2d 841]
 - In the Matter of Freydl (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 349
 - In the Matter of Phillips (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 315
 - In the Matter of Johnson (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 179
 - In the Matter of Brimberry (Review Dept. 1995) 3 Cal. State Bar Ct. Rptr. 390
 - In the Matter of Fonte (Review Dept. 1994) 2 Cal. State Bar Ct. Rptr. 752
 - SF 1980-1
- Attachment of
 - Finance Code section 17410
- Authorized withdrawal of client funds and subsequent revocation of consent
 - LA(l) 1980-3
- Bank charges
 - deposit of \$121.00 of attorney's personal funds in client trust account for bank charges is not unreasonable
 - In the Matter of Respondent F (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 17
- permissible so long as the funds held bear a reasonable relationship to the bank service charges incurred for the general operation of the account and do not serve as a buffer against potential overdrafts
 - LA 485 (1995)
- Bank's action to improperly debit trust account
 - In the Matter of Moriarty (Review Dept. 1999) 4 Cal. State Bar Ct. Rptr. 9
- Billing
 - clients must understand and consent to billing practices
 - Severson & Werson v. Bollinger (1991) 235 Cal.App.3d 1569, mod. at 1 Cal.App.4th 417a
 - CAL 1996-147
 - clients should have an opportunity to review a bill before the attorney seeks authorization to make payment out of the client's recovery
 - In the Matter of Cacioppo (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 128
 - costs and expenses
 - In the Matter of Kroff (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 838
 - "double billing"
 - CAL 1996-147
 - flat periodic fee or lump sum to cover disbursements may be allowed if not unconscionable and client consents
 - In the Matter of Kroff (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 838
 - improper billing and retention of funds out of a client's lien reduction involves moral turpitude
 - In the Matter of Kroff (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 838
 - "over-billing"
 - In the Matter of Berg (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 725
- Cashier's check
 - holding clients funds in
 - Vaughn v. State Bar (1972) 6 Cal.3d 847, 854 [100 Cal.Rptr. 713, 494 P.2d 1257]
 - Black v. State Bar (1962) 57 Cal.2d 219, 227 [18 Cal.Rptr. 518, 368 P.2d 118]
 - In the Matter of Whitehead (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 354
- Check
 - profession shown on
 - LA(l) 1970-3
 - settlement check issued only to client, but delivered to attorney who has a lien
 - OR 99-002
 - stop payment of settlement check
 - LA(l) 1966-5
- Checks issued with insufficient funds
 - Lipson v. State Bar (1991) 53 Cal.3d 1010
 - Read v. State Bar (1991) 53 Cal.3d 394, mod. at 53 Cal.3d 1009A
 - Porter v. State Bar (1990) 52 Cal.3d 518
 - In re Gadda (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 416
- Client cannot be located
 - Code of Civil Procedure section 1518
 - attorney holding funds for the benefit of client
 - CAL 1975-36, LA(l) 1976-2
- Client's use and control of
 - suspension
 - Coppock v. State Bar (1988) 44 Cal.3d 665 [244 Cal.Rptr. 462]
- Commingling
 - Read v. State Bar (1991) 53 Cal.3d 394, mod. at 53 Cal.3d 1009A
 - Lebbos v. State Bar (1991) 53 Cal.3d 37
 - In re Gadda (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 416
 - Bowles v. State Bar (1989) 48 Cal.3d 100 [256 Cal.Rptr. 381, 768 P.2d 1058]
 - In the Matter of Kauffman (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 213

CLIENTS' TRUST ACCOUNT

In the Matter of Yagman (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 788

In the Matter of McKiernan (Review Dept. 1995) 3 Cal. State Bar Ct. Rptr. 420

attorney's unauthorized use or withholding of client's funds

- alcoholic client requests funds be held by attorney and attorney claims a right to use such funds for own purposes
Tomlinson v. State Bar (1975) 13 Cal.3d 567, 570-572 [119 Cal.Rptr. 335, 531 P.2d 1119]
- attorney claims funds are a loan from client but court determines funds are held in trust
Copren v. State Bar (1944) 25 Cal.2d 129, 131 [152 P.2d 729]
- bar membership fees are paid by checks drawn upon client trust account
Hamilton v. State Bar (1979) 23 Cal.3d 868, 874-876 [153 Cal.Rptr. 302, 531 P.2d 1254]
- collection agency receives funds on behalf of client but funds are used for attorney's benefit
McGregor v. State Bar (1944) 24 Cal.2d 283, 284-288 [148 P.2d 865]
- failure to promptly disburse settlement funds from trust account
Blair v. State Bar (1980) 27 Cal.3d 407, 409-410 [165 Cal.Rptr. 834, 612 P.2d 924]
- money collected on a promissory note is not turned over to client
Lavin v. State Bar (1975) 14 Cal.3d 581, 583 [121 Cal.Rptr. 729, 535 P.2d 1185]
- right to retain funds pursuant to a fee agreement is disputed by client
Prime v. State Bar (1941) 18 Cal.2d 56, 59
In the Matter of Kroff (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 838
- wife of attorney acts as bookkeeper and attorney tells her that personal use of trust funds is permissible
Burns v. State Bar (1955) 45 Cal.2d 296, 300
- willful commingling and conversion with no showing of mitigation can result in disbarment
Rogers v. State Bar (1980) 28 Cal.3d 654, 655-657 [170 Cal.Rptr. 482, 620 P.2d 1030]

dangers of offense realized even if violation is technically not committed

Clark v. State Bar (1952) 39 Cal.2d 161, 168

disbursement of funds held for client and adverse party

Wasmann v. Seidenberg (1988) 202 Cal.App.3d 752 [248 Cal.Rptr. 744]

In the Matter of Hertz (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 456

failure to keep attorney's and clients' funds separate

- advanced fee payment is distinguished from true retainer fee
T & R Foods, Inc. v. Rose (1996) 47 Cal.App.4th Supp. 1 [56 Cal.Rptr.2d 41]
Katz v. Workers' Compensation Appeals Board (1981) 30 Cal.3d 353, 355 [178 Cal.Rptr. 815, 636 P.2d 1153]
Baranowski v. State Bar (1979) 24 Cal.3d 153, 164, fn.4 [154 Cal.Rptr. 752]
SF 1980-1
- advance payment retainer distinguished from true retainer
T & R Foods, Inc. v. Rose (1996) 47 Cal.App.4th Supp. 1 [56 Cal.Rptr.2d 41]
- allowing a friend to use the account for business
In the Matter of McKiernan (Review Dept. 1995) 3 Cal. State Bar Ct. Rptr. 420
- an attorney who uses a single account for both personal and client funds is subject to discipline
Rhodes v. State Bar (1989) 49 Cal.3d 50 [260 Cal.Rptr. 266, 775 P.2d 1035]
Seavey v. State Bar (1953) 4 Cal.2d 73, 74-77 [47 P.2d 281]
In the Matter of Kauffman (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 213
In the Matter of McKiernan (Review Dept. 1995) 3 Cal. State Bar Ct. Rptr. 420

- attorney's funds placed in trust account
Rhodes v. State Bar (1989) 49 Cal.3d 50 [260 Cal.Rptr. 266]
- In the Matter of Doran (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 871
- In the Matter of Lynch (Review Dept. 1995) 3 Cal. State Bar Ct. Rptr. 287
- In the Matter of Koehler (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 615
- commingling occurs when an attorney opens a purported trust account but in fact uses it as a personal account
Brody v. State Bar (1974) 11 Cal.3d 347, 349 [113 Cal.Rptr. 371, 495 P.2d 1290]
- employee's salary and other business expenses paid by checks drawn on the client trust account
In the Matter of Koehler (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 615
- funds reasonable sufficient to pay bank charges
In the Matter of Respondent F (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 17
- client's funds placed in attorney's account
- advanced costs improperly deposited in attorney's account
Aronin v. State Bar (1990) 52 Cal.3d 276
- attorney admits to commingling client's funds in personal checking account
Rock v. State Bar (1961) 55 Cal.2d 724 [12 Cal.Rptr. 808]
- In the Matter of Kauffman (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 213
- attorney deposit settlement check in his personal account
Chasteen v. State Bar (1985) 40 Cal.3d 586, 590 [220 Cal.Rptr. 842, 709 P.2d 861]
- attorney misleads clients into allowing client funds to be deposited into attorney's personal account
Bernstein v. State Bar (1972) 6 Cal.3d 909, 918 [101 Cal.Rptr. 369, 495 P.2d 1289]
- bankruptcy papers not filed and advanced funds not deposited in a trust account
Lavin v. State Bar (1975) 14 Cal.3d 581, 583 [121 Cal.Rptr. 729]
- client's corporation funds controlled by attorney who places them in personal account
Hatch v. State Bar (1961) 55 Cal.2d 127, 128-138 [9 Cal.Rptr. 808, 357 P.2d 1064]
- client's funds eventually misappropriated
Stevens v. State Bar (1990) 51 Cal.3d 283 [794 P.2d 925]
- estate's distribution check to beneficiaries is deposited in attorney's payroll account
Palomo v. State Bar (1984) 36 Cal.3d 785, 790 [205 Cal.Rptr. 834]
- expert witness fees inadvertently kept in general account pending an on-going fee dispute
In the Matter of Respondent E (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 716
- habitual practice of depositing client funds into personal account
Sturr v. State Bar (1959) 52 Cal.2d 125, 127-133 [338 P.2d 897]
- probate monies in an account under attorney's name
Murray v. State Bar (1985) 40 Cal.3d 575 [220 Cal.Rptr. 677]
- proceeds from sale of home placed with attorney's funds
Read v. State Bar (1991) 53 Cal.3d 394, mod. at 53 Cal.3d 1009A
- unilateral determination and deposit of attorney fees in personal account is a violation
Silver v. State Bar (1974) 13 Cal.3d 134, 142 [117 Cal.Rptr. 821]

CLIENTS' TRUST ACCOUNT

- client transacts business with his attorney and attorney keeps transaction funds on his person with his own money
Bennett v. State Bar (1945) 27 Cal.2d 31, 35-36 [162 P.2d 5]
- disbarment upheld due to multiple offenses including failure to place advances for fees and costs in client trust account
In re Smith (1967) 67 Cal.2d 460, 463-464 [62 Cal.Rptr. 615, 432 P.2d 231]
- earned fees received from clients deposited in trust account
In the Matter of Doran (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 871
- failure to maintain funds in trust account when attorney is unable to pay doctor bills because doctor refuses payment
Vaughn v. State Bar (1972) 6 Cal.3d 847, 854-865 [100 Cal.Rptr. 713, 494 P.2d 1257]
- inadequate management of trust account
 - aberrational failure of elaborate bookkeeping system
In the Matter of Respondent E (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 716
 - allowing a friend to use the account for business
In the Matter of McKiernan (Review Dept. 1995) 3 Cal. State Bar Ct. Rptr. 420
 - checks issued to clients from commingled accounts with insufficient funds
Alkow v. State Bar (1952) 38 Cal.2d 257, 259-261 [239 P.2d 871]
 - duty to deliver escrow funds to client before taking fees for services
Greenbaum v. State Bar (1976) 15 Cal.3d 893, 899 [126 Cal.Rptr. 785, 544 P.2d 921]
 - failure to establish and supervise a proper trust account procedure
Gassman v. State Bar (1976) 18 Cal.3d 125, 129-130 [132 Cal.Rptr. 675]
In the Matter of Kauffman (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 213
 - failure to keep adequate records
Friedman v. State Bar (1990) 50 Cal.3d 235
Fitzsimmons v. State Bar (1983) 34 Cal.3d 327 [193 Cal.Rptr. 896, 667 P.2d 694]
In the Matter of Doran (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 871
 - failure to notify client of receipt of funds from insurance company
Most v. State Bar (1967) 67 Cal.2d 589, 597 [63 Cal.Rptr. 265, 432 P.2d 953]
 - failure to notify workers' compensation board that an advance of attorney's fees was received from a claimant
Katz v. Workers' Compensation Appeals Board (1981) 30 Cal.3d 353, 355 [178 Cal.Rptr. 815, 636 P.2d 1153]
 - failure to oversee office manager's record keeping and control over clients' funds
Palomo v. State Bar (1984) 36 Cal.3d 785, 796 [205 Cal.Rptr. 834, 685 P.2d 1185]
 - layperson signatory okay if attorney ultimately responsible for integrity of account
CAL 1988-97
 - negligent banking practices
Kelly v. State Bar (1991) 53 Cal.3d 509
 - secretary blamed by attorney when clients' funds are deposited in attorney's office account
Wells v. State Bar (1975) 15 Cal.3d 367 [124 Cal.Rptr. 218, 540 P.2d 58]
 - secretary's misdeposit of client's funds into attorney's operating account did not amount to misappropriation
In the Matter of Respondent F (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 17
 - trust account established but attorney fails to use it
Zitny v. State Bar (1966) 64 Cal.2d 787, 793 [51 Cal.Rptr. 825, 415 P.2d 521]
 - where attorney uses personal account for clients' funds, mere bookkeeping entries will not be a sufficient protection of clients
Bernstein v. State Bar (1972) 6 Cal.3d 909, 917 [101 Cal.Rptr. 369, 495 P.2d 1289]
 - wife of attorney acts as bookkeeper and is told personal use of clients' funds is okay
Burns v. State Bar (1955) 45 Cal.2d 296, 300 [288 P.2d 514]
 - mitigation and restitution efforts by attorney
 - actual financial detriment to a client is not an element and neither good faith nor restitution is a defense to commingling
Heavey v. State Bar (1976) 17 Cal.3d 553, 559 [131 Cal.Rptr. 406, 551 P.2d 1238]
 - little weight is given to an attorney's restitution of client funds when it is done under pressure and as a matter of expediency
Pearlin v. State Bar (1941) 18 Cal.2d 682, 683-684 [117 P.2d 341]
 - violation found even when all parties involved ultimately received every cent to which they were entitled
Ring v. State Bar (1933) 218 Cal. 747, 752 [24 P.2d 821]
 - moral turpitude
 - abdication of responsibility for proper maintenance of client trust account
In the Matter of Doran (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 871
 - moral turpitude not necessarily involved if client's money is always available and not endangered
Peck v. State Bar (1932) 217 Cal. 47, 51 [17 P.2d 112]
 - willful commingling not moral turpitude
Spindell v. State Bar (1975) 13 Cal.3d 253, 256 fn.1 [118 Cal.Rptr. 480, 530 P.2d 168]
 - negligent commingling
 - found when attorney fails to transmit support funds to client's former wife
Schultz v. State Bar (1975) 15 Cal.3d 799, 802 [126 Cal.Rptr. 232, 543 P.2d 600]
 - sanctions
 - disbarment
Resner v. State Bar (1960) 53 Cal.2d 615 [2 Cal.Rptr. 461, 349 P.2d 67]
Sturr v. State Bar (1959) 52 Cal.2d 125, 134 [338 P.2d 897]
McGregor v. State Bar (1944) 24 Cal.2d 283, 289 [148 P.2d 865]
 - suspension
 - Rock v. State Bar (1961) 55 Cal.2d 724, 727 [12 Cal.Rptr. 857, 361 P.2d 585]
 - Burns v. State Bar (1955) 45 Cal.2d 296, 303
 - Alkow v. State Bar (1952) 38 Cal.2d 257, 264
 - Bennett v. State Bar (1945) 27 Cal.2d 31 36-37
 - Griffith v. State Bar (1945) 26 Cal.2d 273, 278
 - In the Matter of Kauffman (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 213
 - In the Matter of Doran (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 871
 - trust account never established
 - practice of designating accounts as "trust accounts" but not using them as such is a violation
Cutler v. State Bar (1969) 71 Cal.2d 241, 244 [78 Cal.Rptr. 172, 455 P.2d 108]
 - trust account not established or maintained
Mrakich v. State Bar (1973) 8 Cal.3d 896, 899-902 [106 Cal.Rptr. 497, 506 P.2d 633]
 - violation found when attorney's procedure for disbursing client's funds does not utilize a client trust account
Resner v. State Bar (1960) 53 Cal.2d 605, 607-612 [2 Cal.Rptr. 461, 349 P.2d 67]
 - Control may be given to non-members of the State Bar
LA 454 (1988)

CLIENTS' TRUST ACCOUNT

- Costs advanced
 - status as trust funds
 - Aronin v. State Bar (1990) 52 Cal.3d 276
 - In the Matter of Nunez (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 196
- Currency
 - holding client's funds in
 - Monroe v. State Bar (1962) 55 Cal.2d 145, 152 [10 Cal.Rptr. 257, 358 P.2d 529]
- Damages to a client is not necessary for a finding of commingling or a failure to manage trust funds
 - Guzzetta v. State Bar (1987) 43 Cal.3d 962, 976
 - Alberton v. State Bar (1984) 37 Cal.3d 1, 13
 - identity of current clients not disclosed to third parties and client specific information regarding funds held by the attorney in a client trust account need not be disclosed to creditor by attorney debtor
 - Hooser v. Superior Court (2001) 84 Cal.App.4th 997 [101 Cal.Rptr.2d 341]
- Internal Revenue Code section 6050(l)
 - any person engaged in a trade or business must report to the IRS the receipt in any year of \$10,000 or more in cash payments from any one person
 - United States v. Blackman (9th Cir. 1995) 72 F.3d 1418
- Duty
 - of succeeding attorney
 - Pearlmutter v. Alexander (1979) 97 Cal.App.3d Supp. 16 [158 Cal.Rptr. 762]
 - to co-counsel
 - LA 454
 - to keep accurate records
 - Fitzsimmons v. State Bar (1983) 34 Cal.3d 327 [193 Cal.Rptr. 896, 667 P.2d 700]
 - to supervise lay signatory on client trust account
 - CAL 1988-97
- Embezzlement
 - criminal proceeding against attorney
 - inadmissible as evidence
 - People v. Stein (1979) 94 Cal.App.3d 235
- Endorsement of client check
 - Palomo v. State Bar (1984) 36 Cal.3d 785
 - attorney's authority to sign client's name in retainer agreement
 - Howard v. State Bar (1990) 51 Cal.3d 215 [793 P.2d 62]
 - settlement check without authorization
 - Silver v. State Bar (1974) 13 Cal.3d 134, 144
 - Montalto v. State Bar (1974) 11 Cal.3d 231, 235
 - Himmel v. State Bar (1971) 4 Cal.3d 786, 798
 - Tardiff v. State Bar (1971) 3 Cal.3d 903, 904
 - successor attorney authorizes an employee to simulate the prior attorney's signature
 - In the Matter of Respondent H (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 234
- Entitlement of client to receive prompt receipt of settlement funds based upon client signing release
 - In the Matter of Respondent F (Review Dept. 1992) 2 Cal.State Bar Ct. Rptr. 17
- Escrow account
 - compliance with rule 4-100 not required where funds to be used to pay attorney's fees are placed in escrow account and are never received or held by the lawyer
 - CAL 2002-159
- Failure to disburse client funds promptly [upon request]
 - Dudugjian v. State Bar (1991) 52 Cal.3d 1092
 - Edwards v. State Bar (1990) 52 Cal.3d 28
 - Bates v. State Bar (1990) 51 Cal.3d 1056
 - Friedman v. State Bar (1990) 50 Cal.3d 235
 - Trousil v. State Bar (1985) 38 Cal.3d 337 [211 Cal.Rptr. 525]
 - Blair v. State Bar (1980) 27 Cal.3d 407, 410 [165 Cal.Rptr. 834, 612 P.2d 924]
 - DeRose v. Heurlin (2002) 100 Cal.App.4th 158 [122 Cal.Rptr.2d 630]
 - In re McCarthy (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 364
 - In the Matter of Phillips (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 315
- In the Matter of Lais (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 907
- In the Matter of Silver (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 902
- In the Matter of Kroff (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 838
- In the Matter of Yagman (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 788
- In the Matter of Feldsott (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 754
- In the Matter of Steele (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 708
- In the Matter of Kaplan (Review Dept. 1996) 3 Cal. State Bar Ct. Rptr. 547
- In the Matter of Hagen (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 153
- In the Matter of Collins (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 1
- LA 438 (1985)
- Failure to establish
 - Alberton v. State Bar (1984) 37 Cal.3d 1, 12 [206 Cal.Rptr. 373]
- Failure to notify clients of receipt of funds
 - McKnight v. State Bar (1991) 53 Cal.3d 1025
 - Chasteen v. State Bar (1985) 40 Cal.3d 586, 592
 - Murray v. State Bar (1985) 40 Cal.3d 575, 580-584 [220 Cal.Rptr. 677]
 - Bambic v. State Bar (1985) 40 Cal.3d 314
 - Dixon v. State Bar (1985) 39 Cal.3d 335 [216 Cal.Rptr. 432]
 - In the Matter of Steele (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 708
 - In the Matter of Kaplan (Review Dept. 1996) 3 Cal. State Bar Ct. Rptr. 547
 - In the Matter of Collins (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 1
 - In the Matter of Kueker (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 615
- Failure to place client funds in
 - McKnight v. State Bar (1991) 53 Cal.3d 1025
 - Dudugjian v. State Bar (1991) 52 Cal.3d 1092
 - Waysman v. State Bar (1986) 41 Cal.3d 452
 - Chasteen v. State Bar (1985) 40 Cal.3d 586, 592 [220 Cal.Rptr. 842]
 - Bambic v. State Bar (1985) 40 Cal.3d 314 [219 Cal.Rptr. 489]
 - Vaughn v. State Bar (1972) 6 Cal.3d 847, 854-855 [100 Cal.Rptr. 713, 494 P.2d 1257]
 - In the Matter of Kauffman (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 213
 - In the Matter of Lais (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 907
 - In the Matter of Steele (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 708
 - In the Matter of Nunez (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 196
 - In the Matter of Collins (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 1
 - In the Matter of Frazier (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 676
- Failure to properly manage trust account
 - In the Matter of Moriarty (Review Dept. 1999) 4 Cal. State Bar Ct. Rptr. 9
- Failure to release client funds
 - Friedman v. State Bar (1990) 50 Cal.3d 235
 - Garlow v. State Bar (1988) 44 Cal.3d 689 [244 Cal.Rptr. 752, 749 P.2d 1807]
 - Gordon v. State Bar (1982) 31 Cal.3d 748, 757 [183 Cal.Rptr. 861, 647 P.2d, 137]
- Failure to return unearned advance fees
 - Rule 8-101, Rules of Professional Conduct (operative until May 26, 1989)
 - Rule 4-100, Rules of Professional Conduct (operative as of May 27, 1989)
 - T & R Foods, Inc. v. Rose (1996) 47 Cal.App.4th Supp. 1 [56 Cal.Rptr.2d 41]
 - Cannon v. State Bar (1990) 51 Cal.3d 1103

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- Bernstein v. State Bar (1990) 50 Cal.3d 221 [786 P.2d 352]
Silva-Vidor v. State Bar (1989) 49 Cal.3d 1071
Slavkin v. State Bar (1989) 49 Cal.3d 894 [264 Cal.Rptr. 131]
Matthew v. State Bar (1989) 49 Cal.3d 784
Pineda v. State Bar (1989) 49 Cal.3d 753
Garlow v. State Bar (1988) 44 Cal.3d 689 [244 Cal.Rptr. 452, 749 P.2d 1307]
Baranowski v. State Bar (1979) 24 Cal.3d 153, 163 [154 Cal.Rptr. 752, 593 P.2d 613]
In re Gadda (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 416
In the Matter of Freydl (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 349
In the Matter of Phillips (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 315
In the Matter of Johnson (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 179
In the Matter of Lantz (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 126
In the Matter of Lais (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 907
In the Matter of Brimberry (Review Dept. 1995) 3 Cal. State Bar Ct. Rptr. 390
In the Matter of Fonte (Review Dept. 1994) 2 Cal. State Bar Ct. Rptr. 752
In the Matter of Collins (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 1
In the Matter of Kennon (Review Dept. 1990) 1 Cal. State Bar Ct. Rptr. 287
 LA 484 (1995)
- Failure to return unused advanced costs
In the Matter of Collins (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 1
In the Matter of Koehler (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 615
- Fiduciary obligation to non-clients as "clients" to maintain records, render appropriate accounts, and make prompt disbursements
Guzzetta v. State Bar (1987) 43 Cal.3d 962, 979 [239 Cal.Rptr. 675]
In the Matter of Riley (Review Dept. 1994) 3 Cal. State Bar Ct. Rptr. 91
In the Matter of Klein (Review Dept. 1994) 3 Cal. State Bar Ct. Rptr. 1
In the Matter of Respondent F (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 17
In the Matter of Frazier (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 676, 693
- Fixed rate for legal fees
 SF 1980-1
- Flat rate for legal fees
 SF 1980-1
- Garnishment
 counsel discloses his possession of client's money in a garnishment proceeding
 LA(l) 1954-4
- Interest bearing accounts
 compliance provisions for
 - establishment of interest bearing trust account pursuant to Business and Professions Code section 6211 (a)
 Business and Professions Code section 6212
 duty of lawyer to place client funds in
 Business and Professions Code section 6211
 IOLTA interest income is private property of owner of principle for purposes of Takings Clause
Phillips v. Washington Legal Foundation (1998) 524 U.S. 156 [118 S.Ct. 1925]
 nominal funds in
 Business and Professions Code section 6211(a)
 Carroll v. State Bar (1985) 166 Cal.App.3d 1193 [213 Cal.Rptr. 305]
 on deposit for a short period of time
 Business and Professions Code section 6211(a)
 Carroll v. State Bar (1985) 166 Cal.App.3d 1193 [213 Cal.Rptr. 305]
 CAL 1988-97
 trustee savings versus trustee checking
- SF 1970-3
 use of, and ownership of interest accrued
 Business and Professions Code section 6211(a)-(b)
Greenbaum v. State Bar (1976) 15 Cal.3d 893 [126 Cal.Rptr. 675, 544 P.2d 721]
 LA 388 (1981), SF 1970-3, LA(l) 1961-7
- Levy on
 Finance Code section 17410
- Lay employee on
Gassman v. State Bar (1976) 18 Cal.3d 125, 128-130 [132 Cal.Rptr. 675]
 CAL 1988-97
 LA 488 (1996), LA 454 (1988)
- Maintain at an adequate level
Warnerv. State Bar (1983) 34 Cal.3d 36 [192 Cal.Rptr. 244, 664 P.2d 148]
- Maintained outside of California
 LA 454
- Med-pay
Attorney Grievance Commission v. Kemp (1984) 496 A.2d 672
- Misappropriation
Lipson v. State Bar (1991) 53 Cal.3d 1010
Brockway v. State Bar (1991) 53 Cal.3d 51
Grim v. State Bar (1991) 53 Cal.3d 21
Harford v. State Bar (1990) 52 Cal.3d 93
Edwards v. State Bar (1990) 52 Cal.3d 28
In re Naney (1990) 51 Cal.3d 186 [793 P.2d 54]
In re Ewaniszyk (1990) 50 Cal.3d 543 [788 P.2d 690]
Amante v. State Bar (1990) 50 Cal.3d 247 [786 P.2d 375]
Friedman v. State Bar (1990) 50 Cal.3d 235 [786 P.2d 359]
Bercovich v. State Bar (1990) 50 Cal.3d 116 [785 P.2d 889]
Snyder v. State Bar (1990) 49 Cal.3d 1302
Walker v. State Bar (1989) 49 Cal.3d 1107
Baker v. State Bar (1989) 49 Cal.3d 804
Pineda v. State Bar (1989) 49 Cal.3d 753
Weller v. State Bar (1989) 49 Cal.3d 670
Kelly v. State Bar (1988) 45 Cal.3d 649 [247 Cal.Rptr. 608]
In re Ford (1988) 44 Cal.3d 810 [244 Cal.Rptr. 476]
Garlow v. State Bar (1988) 44 Cal.3d 689 [244 Cal.Rptr. 452, 749 P.2d 1807]
Guzzetta v. State Bar (1987) 43 Cal.3d 962 [239 Cal.Rptr. 675]
Arden v. State Bar (1987) 43 Cal.3d 713 [239 Cal.Rptr. 68]
Athearn v. State Bar (1979) 22 Cal.3d 232, 234-235 [142 Cal.Rptr. 171, 571 P.2d 628]
Allen v. State Bar (1977) 20 Cal.3d 172, 175-178 [141 Cal.Rptr. 808, 570 P.2d 1226]
Jackson v. State Bar (1975) 15 Cal.3d 372, 375-381 [124 Cal.Rptr. 185, 540 P.2d 25]
Oliver v. State Bar (1974) 12 Cal.3d 318, 320-321 [115 Cal.Rptr. 639, 525 P.2d 79]
Sevin v. State Bar (1973) 8 Cal.3d 641, 643-646 [105 Cal.Rptr. 513, 504 P.2d 449]
Blackmon v. Hale (1970) 3 Cal.3d 348
In re Blum (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 403
In re McCarthy (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 364
In the Matter of Kauffman (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 213
In the Matter of Freydl (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 349
In the Matter of Lantz (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 126
In the Matter of Silver (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 902
In the Matter of Priamos (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 824
In the Matter of Yagman (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 788
In the Matter of Steele (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 708
In the Matter of Elliott (Review Dept. 1996) 3 Cal. State Bar Ct. Rptr. 541
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In the Matter of Acuna (Review Dept. 1996) 3 Cal. State Bar Ct. Rptr. 495
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In the Matter of Cacioppo (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 128
In the Matter of Ward (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 47
In the Matter of Shinn (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 96
In the Matter of Tindall (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 652
 LA 484 (1995)
 advances for expenses in connection with a foreclosure proceeding re withdrawn by attorney but not used to pay expenses
Monroe v. State Bar (1969) 70 Cal.2d 301, 308-309 [74 Cal.Rptr. 733, 450 P.2d 53]
 assets collected for client are converted for attorney's personal benefit
Hatch v. State Bar (1961) 55 Cal.2d 127, 128 [9 Cal.Rptr. 808, 357 P.2d 1064]
 attorney as broker or financial advisor is held to professional standards and is subject to discipline for violations arising from such a relationship
Simmons v. State Bar (1969) 70 Cal.2d 361, 365-366 [74 Cal.Rptr. 915, 450 P.2d 291]
In the Matter of Priamos (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 824
 attorney as guardian commingles estate funds and makes improper investments
Simmons v. State Bar (1969) 70 Cal.2d 361, 365-366 [74 Cal.Rptr. 915, 450 P.2d 291]
Tatlow v. State Bar (1936) 5 Cal.2d 520, 521-524 [55 P.2d 214]
 attorney claims money is loan from client but court says money in trust cannot be used for personal benefit
Copren v. State Bar (1944) 25 Cal.2d 129, 131 [152 P.2d 729]
 attorney converts client money kept in a personal account
Sturr v. State Bar (1959) 52 Cal.2d 125, 129 [338 P.2d 897]
 attorney's wife uses client funds for personal use
Burns v. State Bar (1955) 45 Cal.2d 296, 302 [288 P.2d 514]
 attorney's petition for reinstatement, after disbarment for misappropriation, is denied
Tardiff v. State Bar (1980) 27 Cal.3d 395, 404-405 [165 Cal.Rptr. 829, 612 P.2d 919]
 attorney's repeated conversion of client money without client consent or knowledge
In re Urias (1966) 65 Cal.2d 258, 260-262
 bad faith and/or evil intent need not be shown
Murray v. State Bar (1985) 40 Cal.3d 575, 581-582 [220 Cal.Rptr. 677, 709 P.2d 480]
 bad faith found when attorney fails to make restitution
Kennedy v. State Bar (1989) 48 Cal.3d 610 [257 Cal.Rptr. 324, 770 P.2d 736]
Mack v. State Bar (1970) 2 Cal.3d 440 [85 Cal.Rptr. 625, 467 P.2d 225]
 bail bond money entrusted to attorney by third party, non-client, is converted
Lefner v. State Bar (1966) 64 Cal.2d 189, 194-195 [49 Cal.Rptr. 296, 410 P.2d 832]
 breach of fiduciary duty
Bate v. State Bar (1983) 34 Cal.3d 920 [196 Cal.Rptr. 209, 671 P.2d 360]
 checks issued with insufficient funds
Chasteen v. State Bar (1985) 40 Cal.3d 586, 588-589 [220 Cal.Rptr. 842]
In the Matter of Heiser (Review Dept. 1990) 1 Cal. State Bar Ct. Rptr. 47

client's name forged on draft and proceeds are converted
Demain v. State Bar (1970) 3 Cal.3d 381 [90 Cal.Rptr. 420, 475 P.2d 652]
 combined with other misconduct
 -deceit and overreaching of a client who had limited English-speaking ability
In the Matter of Blum (Review Dept. 1994) 3 Cal. State Bar Ct. Rptr. 170
 -false statements to bar aggravates misappropriation violations
Doyle v. State Bar (1982) 32 Cal.3d 12, 23 [184 Cal.Rptr. 720, 648 P.2d 942]
 -forgery on settlement check and failure to return advances
Porter v. State Bar (1990) 52 Cal.3d 518
Montalto v. State Bar (1974) 11 Cal.3d 231, 232-235 [113 Cal.Rptr. 97, 520 P.2d 721]
 -grand theft as crime of moral turpitude with misappropriation by deceit on client
Hitchcock v. State Bar (1989) 48 Cal.3d 690 [257 Cal.Rptr. 696, 771 P.2d 394]
Ambrose v. State Bar (1982) 31 Cal.3d 184, 191 [181 Cal.Rptr. 903, 643 P.2d 486]
In re Abbot (1977) 19 Cal.3d 249, 251-252 [137 Cal.Rptr. 195, 561 P.2d 285]
 -misappropriation of partnership funds
Kaplan v. State Bar (1991) 52 Cal.3d 1067
In re Basinger (1988) 45 Cal.3d 1348 [249 Cal.Rptr. 110, 756 P.2d 833]
 -misappropriation together with fraud, commingling, and grand theft
In re Demergian (1989) 48 Cal.3d 284 [256 Cal.Rptr. 392, 768 P.2d 1069]
In re Wright (1973) 10 Cal.3d 374, 382 [110 Cal.Rptr. 348, 515 P.2d 292]
 -moral turpitude merits disbarment
Kennedy v. State Bar (1989) 48 Cal.3d 610 [257 Cal.Rptr. 324, 770 P.2d 736]
Kelly v. State Bar (1988) 45 Cal.3d 649 [247 Cal.Rptr. 608]
Persion v. State Bar (1973) 9 Cal.3d 456, 462 [107 Cal.Rptr. 708, 509 P.2d 524]
In the Matter of Blum (Review Dept. 1994) 3 Cal. State Bar Ct. Rptr. 170
 -refusal to make restitution
Grim v. State Bar (1991) 53 Cal.3d 21
 -repeated and persistent misconduct in multiple cases
Gordon v. State Bar (1982) 31 Cal.3d 748, 758 [183 Cal.Rptr. 861, 647 P.2d 137]
 -violation in numerous separate instances accompanied with other dishonest acts
Bambic v. State Bar (1985) 40 Cal.3d 314, 323-326 [219 Cal.Rptr. 489, 707 P.2d 862]
 -violation of rule 7-103
Kelly v. State Bar (1988) 45 Cal.3d 649 [247 Cal.Rptr. 608]
 continuing course of serious misconduct
Tomlinson v. State Bar (1975) 13 Cal.3d 567, 576 [119 Cal.Rptr. 335, 531 P.2d 1119]
 court orders attorney to reimburse client for legal expenses incurred in client's action to recover misappropriated funds
Cutler v. State Bar (1967) 66 Cal.2d 861, 862 [59 Cal.Rptr. 425, 428 P.2d 289]
 disbarment warranted in absence of extenuating circumstances
Stevens v. State Bar (1990) 51 Cal.3d 283 [794 P.2d 925]
 discipline imposed even if no financial loss to client
Bernstein v. State Bar (1972) 6 Cal.3d 909, 919 [101 Cal.Rptr. 369, 495 P.2d 1289]
 doctor refuses payment of medical bills and attorney puts funds to personal use
Vaughn v. State Bar (1972) 6 Cal.3d 847, 851
 entire proceeds of client settlement is converted
Hyland v. State Bar (1963) 59 Cal.2d 765, 769

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- escrow funds unjustifiably withheld by attorney
 - Crooks v. State Bar (1970) 3 Cal.3d 346, 357-358 [90 Cal.Rptr. 600, 475 P.2d 872]
- evil intent need not be shown for finding of moral turpitude
 - Lipson v. State Bar (1991) 53 Cal.3d 1010
- failure to pay funds as designated by bankruptcy court
 - In the Matter of Frazier (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 676
- failure to properly dispose of fees in dispute by client
 - Guzzetta v. State Bar (1987) 43 Cal.3d 962 [239 Cal. Rptr. 675]
 - Tarver v. State Bar (1984) 37 Cal.3d 122, 133-134 [207 Cal.Rptr. 302, 688 P.2d 911]
 - In the Matter of Berg (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 725
 - In the Matter of Respondent F (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 17
 - In the Matter of Hagen (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 153
 - In the Matter of Respondent E (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 716
- LA 484 (1995)
- attorney did not take appropriate steps to resolve competing claims
 - In the Matter of Kroff (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 838
 - In the Matter of Kaplan (Review Dept. 1996) 3 Cal. State Bar Ct. Rptr. 547
- failure to refund unearned funds advanced by client
 - Dixon v. State Bar (1985) 39 Cal.3d 335, 340-341 [216 Cal.Rptr. 432, 702 P.2d 590]
- failure to use funds for designated purpose
 - Baca v. State Bar (1990) 52 Cal.3d 294
 - Copren v. State Bar (1944) 25 Cal.2d 129
 - In re McCarthy (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 364
- fee agreement modification from hourly to contingent is raised as a defense but not supported by documentary evidence
 - In the Matter of Shinn (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 96
- five separate counts of misappropriation is serious misconduct warranting disbarment
 - Finch v. State Bar (1981) 28 Cal.3d 659, 655
- for personal use
 - Bernstein v. State Bar (1972) 6 Cal.3d 909, 917
- funds designated for bail are converted to attorney's personal use
 - Fitzpatrick v. State Bar (1977) 20 Cal.3d 73, 81, [141 Cal.Rptr. 169, 569 P.2d 763]
- grand theft
 - In re Basinger (1988) 45 Cal.3d 1348 [249 Cal.Rptr. 110, 756 P.2d 833]
 - Ambrose v. State Bar (1982) 31 Cal.App.3d 184 [181 Cal.Rptr. 903, 643 P.2d 486]
- estates
 - In re Mudge (1982) 33 Cal.3d 152 [187 Cal.Rptr. 779, 654 P.2d 1307]
- gravity of present violation shows unacceptable potential for future breach of trust
 - Rimel v. State Bar (1983) 34 Cal.3d 128, 132 [192 Cal.Rptr. 866, 665 P.2d 956]
- gross negligence in the handling of client trust funds may involve moral turpitude
 - In re Blum (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 403
 - In the Matter of Lantz (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 126
 - In the Matter of Hagen (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 153
- habitual misuse of client's funds
 - Tardiff v. State Bar (1971) 3 Cal.3d 903, 904-908 [92 Cal.Rptr. 30, 479 P.2d 661]
- improbable explanations and a failure to account for client funds is sufficient to find a violation
 - Codiga v. State Bar (1978) 20 Cal.3d 788, 794-795 [144 Cal.Rptr. 404, 575 P.2d 1186]
- improper practice of depositing attorney funds in trust account and using the account for personal use
 - Jackson v. State Bar (1979) 25 Cal.3d 398, 404 [158 Cal.Rptr. 869, 600 P.2d 1326]
- in level of account
 - Jackson v. State Bar (1979) 23 Cal.3d 509, 512 [153 Cal.Rptr. 24, 591 P.2d 47]
- inadequate supervision by attorney
 - attorney blames violation on a secretarial error
 - Sugarman v. State Bar (1990) 51 Cal.3d 609
 - Wells v. State Bar (1975) 15 Cal.3d 367, 369-370 [124 Cal.Rptr. 218, 540 P.2d 58]
 - duty of attorney to supervise employee's control of trust account
 - Gassman v. State Bar (1976) 18 Cal.3d 125, 129 [132 Cal.Rptr. 785, 544 P.2d 58]
 - In the Matter of Collins (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 1
 - negligent, unintentional violation due to poor supervision of office and financial affairs
 - Waysman v. State Bar (1986) 41 Cal.3d 452, 458 [224 Cal.Rptr. 101, 714 P.2d 1239]
- inference of intentional violation from attorney's willful failure to use a trust account
 - Walter v. State Bar (1970) 2 Cal.3d 880, 885-890 [87 Cal.Rptr. 833, 471 P.2d 481]
- installments on client settlement converted
 - Egan v. State Bar (1956) 46 Cal.2d 370 [294 P.2d 949]
- liability for acts of partner in law practice
 - Blackmon v. Hale (1970) 1 Cal.3d 548 [83 Cal.Rptr. 194, 463 P.2d 418]
- misappropriation is a grievous breach of trust and endangers public confidence
 - Rogers v. State Bar (1980) 28 Cal.3d 654, 658 [170 Cal.Rptr. 482, 620 P.2d 1030]
- mitigation and restitution efforts by attorney
 - absence of harm to attorney's client or others
 - Kelly v. State Bar (1991) 53 Cal.3d 509
 - attorney's restitution began long before disciplinary proceeding was mitigating
 - Benson v. State Bar (1971) 5 Cal.3d 382, 387-388 [96 Cal.Rptr. 30, 486 P.2d 1230]
 - cooperation and candor with State Bar undermined by failure to make restitution
 - In the Matter of Collins (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 1
 - extenuating circumstances insufficient to lessen discipline
 - Smith v. State Bar (1984) 37 Cal.3d 17, 22-26 [206 Cal.Rptr. 545, 687 P.2d 259]
 - Grossman v. State Bar (1983) 34 Cal.3d 73, 79 [192 Cal.Rptr. 397, 664 P.2d 542]
 - lack of intentional or premeditated conduct
 - Schultz v. State Bar (1975) 15 Cal.3d 799, 803-804 [126 Cal.Rptr. 232, 243 P.2d 600]
 - lenient discipline imposed
 - Anderson v. State Bar (1941) 17 Cal.2d 375, 378 [110 P.2d 1]
 - manic-depressive condition at time of improprieties
 - McKnight v. State Bar (1991) 53 Cal.3d 1025
 - mitigation not found from mere fact that attorney did not lie
 - Edmondson v. State Bar (1981) 29 Cal.3d 339, 344 [172 Cal.Rptr. 899, 625 P.2d 812]
 - no financial loss to client is asserted by attorney
 - Himmel v. State Bar (1971) 4 Cal.3d 786 [94 Cal.Rptr. 825, 484 P.2d 993]
 - restitution in full is of no effect when made under pressure of litigation and discipline
 - In re Ford (1988) 44 Cal.3d 810 [244 Cal.Rptr. 476]
 - Magee v. State Bar (1975) 13 Cal.3d 700, 708-709 [119 Cal.Rptr. 485, 532 P.2d 133]

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- restitution works no special magic and the weight given is determined by actual attitude and financial ability of the attorney
 - In re Andreani (1939) 14 Cal.2d 736, 750 [97 P.2d 456]
- youth and inexperience not factors in favor of mitigation
 - Amante v. State Bar (1990) 50 Cal.3d 247
- multiple unauthorized withdrawals
 - In the Matter of Tindall (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 652
- necessity and urgent financial difficulties is not a defense to a violation
 - Cane v. State Bar (1939) 14 Cal.2d 597, 601 [95 P.2d 934]
- no violation found
 - when attorney merely fails to supervise records regarding disbursement of settlement funds
 - Steiner v. State Bar (1968) 68 Cal.2d 707, 714 [68 Cal.Rptr. 729, 441 P.2d 289]
 - when client instructs attorney to give money to a third person and attorney, having power of attorney from third person, deposits the money in his own account
 - Russell v. State Bar (1941) 18 Cal.2d 321, 328
 - when notice to show cause does not use term "misappropriation"
 - In the Matter of Hertz (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 456
- office procedures
 - Palomo v. State Bar (1984) 36 Cal.3d 785 [205 Cal.Rptr. 834]
- part of recovery allocated for hospital bills is put to attorney's personal use
 - Fielding v. State Bar (1973) 9 Cal.3d 446, 450 [107 Cal.Rptr. 561, 509 P.2d 193]
- past conduct may be used in determining discipline
 - Hennessy v. State Bar (1941) 18 Cal.2d 685, 687 [117 P.2d 336]
- pattern of deliberate and willful misconduct
 - Inniss v. State Bar (1978) 20 Cal.3d 552, 556 [143 Cal.Rptr. 408, 573 P.2d 852]
- persistent refusal to account for
 - Jackson v. State Bar (1979) 23 Cal.3d 509, 513 [153 Cal.Rptr. 24, 591 P.2d 47]
- records and accounting problems
 - balance in trust account drops below amount entrusted to attorney
 - Lowe v. State Bar (1953) 40 Cal.2d 564, 566
 - inadequate account records evidencing a violation
 - Dreyfus v. State Bar (1960) 54 Cal.2d 799, 804-806 [8 Cal.Rptr. 356]
 - mere fact that the balance in a trust account is below amount of deposits will support a violation
 - Lipson v. State Bar (1991) 53 Cal.3d 1010
 - Edwards v. State Bar (1990) 52 Cal.3d 28
 - Giovanazzi v. State Bar (1980) 28 Cal.3d 465, 474 [169 Cal.Rptr. 581, 619 P.2d 1005]
 - In re Blum (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 403
 - In re McCarthy (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 364
 - In the Matter of Ward (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 47
 - office procedures inadequate
 - Lipson v. State Bar (1991) 53 Cal.3d 1010
 - trust account showing funds less than amount due to clients will support a violation
 - Black v. State Bar (1972) 7 Cal.3d 676, 691 [103 Cal.Rptr. 288, 499 P.2d 968]
 - violation by establishing trust account but using as general business account
 - Bradpiece v. State Bar (1974) 10 Cal.3d 742, 744 [111 Cal.Rptr. 905, 518 P.2d 337]
- repossession proceeds converted by attorney
 - Mrakich v. State Bar (1973) 8 Cal.3d 896 [106 Cal.Rptr. 497, 506 P.2d 633]
- sanctions
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 - Kaplan v. State Bar (1991) 52 Cal.3d 1067
 - Stanley v. State Bar (1990) 50 Cal.3d 555 [788 P.2d 697]
 - In re Ewaniszyk (1990) 50 Cal.3d 543 [788 P.2d 690]
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 - Chang v. State Bar (1989) 49 Cal.3d 114 [260 Cal.Rptr. 280]
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 - Ambrose v. State Bar (1982) 31 Cal.3d 184, 192-196 [181 Cal.Rptr. 903, 643 P.2d 486]
 - Rogers v. State Bar (1980) 28 Cal.3d 654, 657-658 [170 Cal.Rptr. 482, 620 P.2d 1030]
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 - Fitzpatrick v. State Bar (1977) 20 Cal.3d 73, 86-89 [141 Cal.Rptr. 169, 569 P.2d 763]
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 - Sevin v. State Bar (1973) 8 Cal.3d 641, 646-647 [105 Cal.Rptr. 513, 504 P.2d 449]
 - Tardiff v. State Bar (1971) 3 Cal.3d 903, 908 [92 Cal.Rptr. 301, 479 P.2d 661]
 - Cutler v. State Bar (1969) 71 Cal.2d 241, 253-254 [78 Cal.Rptr. 172, 455 P.2d 108]
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 - Pearlin v. State Bar (1941) 18 Cal.2d 682, 683-684 [117 P.2d 341]
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SD 1976-14
- Agent of attorney, physician
City & County of San Francisco v. Superior Court (1951) 37 Cal.2d 227, 234 [231 P.2d 26]
- Amicable solution suggested to
LA 334 (1973)
- Attorney-client privilege [See Confidences of the client, privilege]
- Attorney of record
McMunn v. Lehrke (1915) 29 Cal.App. 298, 308
- Authorized by law
U.S. ex rel. O'Keefe v. McDonnell Douglas Corp. (8th Cir. Missouri 1999) 132 F.3d 1252
authority of government prosecutors and investigators to conduct criminal investigations
75 Ops. Cal. Atty. Gen. 223 (10/8/92; No. 91-1205)
-rule prohibiting ex parte communications does not bar discussions initiated by employee of defendant corporation with government attorney for the purpose of disclosing that corporate officers are attempting to suborn perjury and obstruct justice
United States v. Talao (9th Cir. 2000) 222 F.3d 1133
lawyer who receives attorney-client material that was inadvertently provided by another must notify the party entitled to the privilege of that fact
State Compensation Insurance Fund v. WPS, Inc. (1999) 70 Cal.App.4th 644 [82 Cal.Rptr.2d 799]
notice of rejection served directly on claimant's attorney is a permissible contract to Probate Code section 9250
Merrill v. Finberg (1992) 4 Cal.App.4th 1443 [6 Cal.Rptr.2d 434]
- Bankruptcy trustee
CAL 1989-110
- By client
Shalant v. State Bar (1983) 33 Cal.3d 485 [189 Cal.Rptr. 374]
LA 375 (1978), LA(l) 1966-16
SD 1983-2, SF 1973-25
need not attempt to prevent client's effort to reach direct settlement with adverse party
CAL 1993-131, LA 375 (1978)
- By employee of attorney
Crane v. State Bar (1981) 30 Cal.3d 117, 122 [177 Cal.Rptr. 670, 635 P.2d 163]
- Child custody and support
LA(l) 1958-3
SD 1972-5
- City council member
CAL 1977-43
- Civil liability
Wilhelm v. Pray, Price, Williams & Russell (1986) 186 Cal.App.3d 1324, 1333 fn. 5
- Class action
potential members
Gulf Oil Company v. Bernard (1981) 452 U.S. 89 [101 S.Ct. 2193]
In re McKesson HBOC, Inc. Securities Litigation (N.D. Cal. 2001) 126 F.Supp.2d 1239
Howard Guntz Profit Sharing Plan, et al. v. Superior Court (Greenwood) (2001) 88 Cal.App.4th 572 [105 Cal.Rptr.2d 896]
Atari v. Superior Court (1985) 166 Cal.App.3d 867, 871-873 [212 Cal.Rptr. 773]
- Client negotiating directly with opposing party
CAL 1993-131, SF(l) 1985-1, LA 375 (1978)
- Client of adverse party when party is counsel of said client
LA 213 (1954)
- Communicate written settlement offer to client
Business and Professions Code section 6103.5
Rule 5-105, Rules of Professional Conduct
- Confidences learned cannot be unlearned
County of Los Angeles v. Superior Court (1990) 222 Cal.App.3d 647 [217 Cal.Rptr. 698]
Chronometrics, Inc. v. Sysgen, Inc. (1980) 110 Cal.App.3d 597, 607 [168 Cal.Rptr. 196]
- Consent of employer required
LA 389 (1981)
- Consultant
communication with opposing party's expert who had been withdrawn as a witness but remained a consultant warranted disqualification
County of Los Angeles v. Superior Court (1990) 222 Cal.App.3d 647 [217 Cal.Rptr. 698]
- Contact adverse party through client
Abeles v. State Bar (1973) 9 Cal.3d 603, 609 [108 Cal.Rptr. 359, 510 P.2d 719]
CAL 1993-131
at client's direction
Shalant v. State Bar (1983) 33 Cal.3d 485 [189 Cal.Rptr. 374, 658 P.2d 737]
settlement effected without consent
Turner v. State Bar (1950) 36 Cal.2d 155
- Contact former expert witness of adverse party
County of Los Angeles v. Superior Court (1990) 222 Cal.App.3d 647 [271 Cal.Rptr. 678]
- Copy of letter to adverse party sent to counsel of
LA(l) 1958-3
- Copy of letter to counsel of adverse party sent to opposing party
LA 490 (1997), LA 350 (1975), LA(l) 1958-3
Corporation (homeowner's association) where attorney is member of association and represents plaintiffs against association
LA 397 (1982)
- Criminal matter
Triple A Machine Shop v. State of California (1989) 213 Cal.App.3d 131
defendant interviewed by prosecutor
People v. Manson (1976) 61 Cal.App.3d 102, 164 [132 Cal.Rptr. 265]
post-indictment
-by government informant
United States v. Kenny (9th Cir. 1980) 645 F.2d 1323
pre-indictment
U.S. v. Lemonakis (D.C. 1973) 485 F.2d 941, 955-956
-grand jury witness initiated communication with Assistant U.S. Attorney
United States v. Talao (9th Cir. 2000) 222 F.3d 1133
-not at direction of U.S. attorney
United States v. Jamil (2nd Cir. 1983) 707 F.2d 638, 645-646
- qui tam action
U.S. ex rel. O'Keefe v. McDonnell Douglas Corp. (8th Cir. Missouri 1999) 132 F.3d 1252
- Debt collection matters
debtor represented by party
Civil Code section 1788.14(c)
false representation that person is attorney
Civil Code section 1788.13(b)
in name of attorney
Civil Code section 1788.13(c)
on stationery of lawyer
Civil Code section 1788.13(c)
- Debtor
SD 1978-4
- Direct
LA 365 (1977)
- Disqualification of attorney from the action as proper sanction
County of Los Angeles v. Superior Court (1990) 222 Cal.App.3d 647 [217 Cal.Rptr. 698]
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- Cal.App.4th 94 [37 Cal.Rptr.2d 843]
Mills Land & Water Co. v. Golden West Refining (1986) 186 Cal.App.3d 116 [230 Cal.Rptr. 580]
Chronometrics, Inc. v. Sysgen, Inc. (1980) 110 Cal.App.3d 597, 603-608 [168 Cal.Rptr. 196]
- District attorney's authority as prosecutor to conduct criminal investigations
 75 Ops. Cal. Atty. Gen. 223 (10/8/92; No. 91-1205)
- Effect of violation of rule 7-103
In re Marriage of Wickander (1986) 187 Cal.App.3d 1364
Noble v. Sears Roebuck & Co. (1973) 33 Cal.App.3d 654, 658 [109 Cal.Rptr. 269]
- Electronic communication technologies, utilization of
 OR 97-002
- Employee
Upjohn v. U.S. (1981) 449 U.S. 383, 393 [101 S.Ct. 677]
U.S. ex rel. O'Keefe v. McDonnell Douglas Corp. (8th Cir. Missouri 1999) 132 F.3d 1252
Truitt v. Superior Court (1997) 59 Cal.App.4th 1183 [69 Cal.Rptr.2d 558]
Jorgensen v. Taco Bell (1996) 50 Cal.App.4th 1398 [58 Cal.Rptr.2d 178]
Triple A Machine Shop v. State of California (1989) 213 Cal.App.3d 131
Bobele v. Superior Court (1988) 199 Cal.App.3d 708 [245 Cal.Rptr. 144]
 CAL 1991-125
 LA 410 (1983), LA 389 (1981), LA 369 (1977), LA 234 (1956), LA(l) 1976-1, LA(l) 1966-6
 SD 1984-5, SF 1973-4
 current director
Continental Insurance Co. v. Superior Court (1995) 32 Cal.App.4th 94 [37 Cal.Rptr.2d 843]
Mills Land & Water Co. v. Golden West Refining (1986) 186 Cal.App.3d 116 [230 Cal.Rptr. 580]
 LA 472 (1993)
 dissident director
 CAL 1991-125
 former employee
In re Coordinated Pre-Trial Proceedings (1981) 658 F.2d 1355, fn.7
U.S. ex rel. O'Keefe v. McDonnell Douglas Corp. (8th Cir. Missouri 1999) 132 F.3d 1252
Continental Insurance Co. v. Superior Court (1995) 32 Cal.App.4th 94 [37 Cal.Rptr.2d 843]
Nalian Truck Lines v. Nakano Warehouse and Transportation (1992) 6 Cal.App.4th 1256
Bobele v. Superior Court (1988) 199 Cal.App.3d 708 [245 Cal.Rptr. 144]
 former secretary of opposing party
Maruman Integrated Circuits, Inc. v. Consortium Co. (1985) 166 Cal.App.3d 443
 non-managing employee
United States v. Talao (9th Cir. 2000) 222 F.3d 1133
Continental Insurance Co. v. Superior Court (1995) 32 Cal.App.4th 94 [37 Cal.Rptr.2d 843]
 LA 369 (1977), SD 1984-5
- Employer of adverse counsel
 LA 339 (1973)
- Employer of adverse party
 LA 410 (1983), LA 411 (1983)
- Entrapment purposes
 LA 315 (1970)
- Exclusion of information acquired by violation of rule 7-103, Rules of Professional Conduct, as proper remedy
U.S. v. Thomas (10th Cir. 1973) 474 F.2d 110, 112
Mills Land & Water Co. v. Golden West Refining (1986) 186 Cal.App.3d 116 [230 Cal.Rptr. 580]
Chronometrics, Inc. v. Sysgen, Inc. (1980) 110 Cal.App.3d 597, 603-608 [168 Cal.Rptr. 196]
 LA 472 (1993)
- Expert witness
Erickson v. Newmar Corp. (9th Cir. 1996) 87 F.3d 298
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Toyota Motor Sales, U.S.A., Inc. v. Superior Court (1996) 46 Cal.App.4th 778 [54 Cal.Rptr.2d 22]
- Shadow Traffic Network v. Superior Court (1994) 24 Cal.App.4th 1067 [29 Cal.Rptr.2d 693]
County of Los Angeles v. Superior Court (1990) 222 Cal.App.3d 647 [271 Cal.Rptr. 678]
 communication with opposing party's expert who had been withdrawn as a witness but remained a consultant warranted disqualification
County of Los Angeles v. Superior Court (1990) 222 Cal.App.3d 647 [271 Cal.Rptr. 698]
 expert witness contacting opposing party
Lewis v. Telephone Employees Credit Union (9th Cir. 1996) 87 F.3d 1537
 in violation of federal discovery regulations
Erickson v. Newmar Corp. (9th Cir. 1996) 87 F.3d 298
Toyota Motor Sales, U.S.A., Inc. v. Superior Court (1996) 46 Cal.App.4th 778 [54 Cal.Rptr.2d 22]
- Former attorney employee
 LA 389 (1981)
- Former employee
In re Coordinated Pre-Trial Proceedings (1981) 658 F.2d 1355, fn.7
U.S. ex rel. O'Keefe v. McDonnell Douglas Corp. (8th Cir. Missouri 1999) 132 F.3d 1252
Continental Insurance Co. v. Superior Court (1995) 32 Cal.App.4th 94 [37 Cal.Rptr.2d 843]
Nalian Truck Lines v. Nakano Warehouse and Transportation (1992) 6 Cal.App.4th 1256
Bobele v. Superior Court (1988) 199 Cal.App. 708 [245 Cal.Rptr. 144]
- Funding agency of adverse counsel
 LA 339 (1973)
- Government attorney
United States v. Ferrara (D.D.C. 1993) 847 F.Supp. 964
United States v. Lopez (9th Cir. 1993) 4 F.3d 1455
Triple A Machine Shop v. State of California (1989) 213 Cal.App.3d 131 [261 Cal.Rptr.2d 493]
Kain v. Municipal Court (1982) 130 Cal.App.3d 499 [181 Cal.Rptr. 751]
 CAL 1996-145, CAL 1979-49
 regulation which permitted government contact with employee of represented organization if that employee was not "controlling individual" was not authorized
U.S. ex rel. O'Keefe v. McDonnell Douglas Corp. (8th Cir. Missouri 1999) 132 F.3d 1252
 rule prohibiting ex parte communications does not bar pre-indictment discussions initiated by employee of defendant corporation with government attorney for the purpose of disclosing that corporate officers are attempting to suborn perjury and obstruct justice
United States v. Talao (9th Cir. 2000) 222 F.3d 1133
- Government official
 CAL 1977-43
 61 Minn. L.Rev. 1007 (1977)
- Governmental unit
Cleland v. Superior Court (1942) 52 Cal.App.2d 530
 CAL 1977-43, 61 Minn. L.Rev. 1007 (1977)
- Indirect
Lewis v. Telephone Employees Credit Union (9th Cir. 1996) 87 F.3d 1537
Shalant v. State Bar (1983) 33 Cal.3d 485, 489 [189 Cal.Rptr. 374, 658 P.2d 737]
Truitt v. Superior Court (1997) 59 Cal.App.4th 1183 [69 Cal.Rptr.2d 558]
 CAL 1993-131
- Induce party to change law firms
Frazier, Dame, Doherty, Parrish & Hannawalt v. Boccardo, Blum, Lull, Niland, Terlink & Bell (1977) 70 Cal.App.3d 331, 337 [138 Cal.Rptr. 670]
- Insurance coverage of with defendant insured
 LA 350 (1975)
- Insurer of
 LA 508 (2002), LA 442 (1988), SD 1978-8
 insurer's investigator contacts adverse party
 LA 376 (1978)

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Investigator, use of to contact adverse party

Truitt v. Superior Court (1997) 59 Cal.App.4th 1183 [69 Cal.Rptr.2d 558]

LA 315 (1970)

criminal investigator

U.S. ex rel. O'Keefe v. McDonnell Douglas Corp. (8th Cir. Missouri 1999) 132 F.3d 1252

People v. Stevens (1990) 218 Cal.App.3d 575

People v. Sultana (1988) 204 Cal.App.3d 511

People v. Dickson (1985) 167 Cal.App.3d 1047

75 Ops. Cal. Atty. Gen. 223 (10/8/92; No. 91-1205)

Judge [See Judge, communication. Ex Parte Communication with Judge.]

Jury [See Jury.]

Lineup by district attorney without notifying attorney of record

People v. Sharp (1983) 150 Cal.App.3d 13, 18 [197 Cal.Rptr. 436]

Matter of adverse interest, defined

Turner v. State Bar (1950) 36 Cal.2d 155, 158 [222 P.2d 857]

Military commanding officer

SD 1978-9

Minor client

duty to communicate in ways consistent with the minor's age, language skills, intelligence, experience, maturity, and mental condition

LA 504 (2000)

Not a basis for imposition of civil liability in damages

Noble v. Sears, Roebuck & Co. (1973) 33 Cal.App.3d 654, 658-659 [109 Cal.Rptr. 269]

Not applicable to witnesses in a criminal proceeding

Kain v. Municipal Court (1982) 130 Cal.App.3d 499, 503-505 [181 Cal.Rptr. 751]

grand jury witness initiated communication with Assistant U.S. Attorney

United States v. Talao (9th Cir. 2000) 222 F.3d 1133

Not represented by counsel

CAL 1996-145

LA 508 (2002), LA 334 (1973)

duty on attorney to be scrupulously fair in all dealings

CAL 1996-145, LA 334 (1973)

Officer of

LA 369 (1977)

Party defined

Jackson v. Ingersoll-Rand Co. (1996) 42 Cal.App.4th 1163 [50 Cal.Rptr.2d 66]

Mitton v. State Bar (1969) 71 Cal.2d 525, 527-534 [78 Cal.Rptr. 649, 455 P.2d 753]

Shaeffer v. State Bar (1945) 26 Cal.2d 739, 741-742

Atari, Inc. v. Superior Court (1985) 166 Cal.App.3d 867 [212 Cal.Rptr. 773]

Kain v. State Bar (1982) 130 Cal.App.3d 499, 504

Chronometrics, Inc. v. Sysgen, Inc. (1980) 110 Cal.App.3d 597, 599-603 [168 Cal.Rptr. 196]

CAL 1996-145, LA 490 (1997)

after appeal

Carpenter v. State Bar (1930) 210 Cal. 520, 521-523 [292 P. 450]

CAL 1979-49, SD 1972-5, SD 1968-2

exception

-public official

CAL 1977-43, SD 1978-3

insurer, even though not named a party

LA 442 (1988)

Party/attorney communicating on own behalf with a represented party

CAL 1989-110

Physician of party

LA 490 (1997), SD 1983-9

attorney-client privilege extends to

City & County of San Francisco v. Superior Court (1951) 37 Cal.2d 227, 234 [231 P.2d 26]

communication with opposing party's medical expert who had been withdrawn as a witness but remained a consultant warranted disqualification

County of Los Angeles v. Superior Court (1990) 222 Cal.App.3d 647 [217 Cal.Rptr. 698]

ex parte communications between defendants and plaintiff's treating physician should be limited to the statutorily mandated manner

Torres v. Superior Court (1990) 221 Cal.App.3d 181 [270 Cal.Rptr. 401]

opposing

CAL 1975-33, SD 1983-9

Physician practicing in hospital when hospital is opposing party SD 1983-9, SF 1973-4

Physician-patient waiver

Evidence Code section 996

Plaintiff's physician

communication with opposing party's medical expert who had been withdrawn as a witness but remained a consultant warranted disqualification

County of Los Angeles v. Superior Court (1990) 222 Cal.App.3d 647 [217 Cal.Rptr. 698]

CAL 1975-33

Prior litigation where parties remain adverse

LA 411 (1983)

Purpose of the rule

Graham v. U.S. (9th Cir. 1996) 96 F.3d 446

Jorgensen v. Taco Bell (1996) 50 Cal.App.4th 1398 [58 Cal.Rptr.2d 178]

Jackson v. Ingersoll-Rand Co. (1996) 42 Cal.App.4th 1163 [50 Cal.Rptr.2d 66]

U.S. v. Lopez (N.D. Cal. 1991) 765 F.Supp. 1433

Abeles v. State Bar (1973) 9 Cal.3d 603, 606-611 [108 Cal.Rptr. 359, 510 P.2d 719]

Mitton v. State Bar (1969) 71 Cal.2d 525, 534 [78 Cal.Rptr. 649, 455 P.2d 753]

People v. Sharp (1984) 150 Cal.App.3d 13, 18

In the Matter of Wyshak (Review Dept. 1999) 4 Cal. State Bar Ct. Rptr. 70

In the Matter of Yagman (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 788

*In the Matter of Twitty (Review Dept. 1994) 2 Cal. State Bar Ct. Rptr. 664

CAL 1996-145, CAL 1993-131, LA 490, LA 472, LA 442

justifies an exception to prevent subornation of perjury

United States v. Talao (9th Cir. 2000) 222 F.3d 1133

Relating to matters previously litigated

LA 411 (1983)

Reliance on party's opinion that he has an attorney

Ewell v. State Bar (1934) 2 Cal.2d 209, 216, 220

under Insurance Code, notice of representation by counsel must be written notice

Pugh v. State Farm Insurance Co. (1991) 227 Cal.App.3d 816 [278 Cal.Rptr. 149]

Represented by counsel

Graham v. U.S. (9th Cir. 1996) 96 F.3d 446

Abeles v. State Bar (1973) 9 Cal.3d 603, 606-611 [108 Cal.Rptr. 359, 510 P.2d 719]

In the Matter of Wyshak (Review Dept. 1999) 4 Cal. State Bar Ct. Rptr. 70

In the Matter of Twitty (Review Dept. 1994) 2 Cal. State Bar Ct. Rptr. 664

CAL 1996-145, LA 490 (1997)

actual vs. constructive knowledge of representation

Truitt v. Superior Court (1997) 59 Cal.App.4th 1183 [69 Cal.Rptr.2d 558]

CAL 1996-145, LA 508 (2002)

communications with former wife of the adversary do not provide a basis for disqualification

Jackson v. Ingersoll-Rand Co. (1996) 42 Cal.App.4th 1163 [50 Cal.Rptr.2d 66]

may not be improper when attorney had no actual knowledge of the representation

Truitt v. Superior Court (1997) 59 Cal.App.4th 1183 [69 Cal.Rptr.2d 558]

LA 508 (2002)

on a pending unrelated matter

SD 1978-3

COMMUNICATION WITH A REPRESENTED PARTY

on previous charges
United States v. Masullo (2nd Cir. 1973) 489 F.2d 217, 223

without consent of counsel
In re Marriage of Wickander (1986) 187 Cal.App.3d 1364
 -court chooses not to speak on ethical issues
United States v. Springer (7th Cir. 1971) 460 F.2d 1344, 1354
 -exclusion of information obtained
United States v. Thomas (10th Cir. 1973) 474 F.2d 110, 112
 -permitted when a party is seeking to hire new counsel or obtain a second opinion
*In the Matter of Twitty (Review Dept. 1994) 2 Cal. State Bar Ct. Rptr. 664
 -permitted when not representing a party in the matter for the sole purpose of advising person of the competence of representation
 LA 487 (1996)
 -rule prohibiting ex parte communications does not bar discussions initiated by employee of defendant corporation with government attorney for the purpose of disclosing that corporate officers are attempting to suborn perjury and obstruct justice
 --permitted to prevent subornation of perjury
United States v. Talao (9th Cir. 2000) 222 F.3d 1133
 -standing to assert ethical violation
United States v. Partin (9th Cir. 1979) 601 F.2d 1000, 1005

Second attorney representing client against first attorney's motion to be removed as client's attorney of record
 LA 416 (1983)

Settlement
 LA 350 (1975), SD 1978-8
 -by client
 LA 375 (1978), SF 1973-25
 -counsel fails to convey offer
 LA 350 (1975)
 -written offer to client
In the Matter of Yagman (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 788

Social relationships with opposing party by attorney
Pepper v. Superior Court (1977) 76 Cal.App.3d 252 [142 Cal.Rptr. 759]

Third parties of debtor
 Civil Code section 1788.12

Through client
 CAL 1993-131, SD 1983-11

Through lay intermediaries
 investigator
Tuitt v. Superior Court (1997) 59 Cal.App.4th 1183 [69 Cal.Rptr.2d 558]
 LA 315 (1970)

"Upon a subject of controversy" element of rule 7-103, Rules of Professional Conduct construed
Crane v. State Bar (1981) 30 Cal.3d 117, 122-123 [177 Cal.Rptr. 670, 635 P.2d 163]
Abeles v. State Bar (1973) 9 Cal.3d 603, 610-611 [108 Cal.Rptr. 359, 510 P.2d 719]
Turner v. State Bar (1950) 36 Cal.2d 155, 158-159 [222 P.2d 857]
Shaeffer v. State Bar (1945) 26 Cal.2d 739, 741-742 [160 P.2d 825]
*In the Matter of Twitty (Review Dept. 1994) 2 Cal. State Bar Ct. Rptr. 664
 CAL 1993-133, CAL 1979-49, LA 14 (1922), SD 1976-14

When client opines that he has an attorney
Ewell v. State Bar (1934) 2 Cal.2d 209, 216, 220
 under Insurance Code, notice of representation by counsel must be written notice
Pugh v. State Farm Insurance Co. (1991) 227 Cal.App.3d 816

When counsel for adverse party does not respond
 LA 350 (1975)

Without consent of counsel

Levin v. State Bar (1989) 47 Cal.3d 1140 [255 Cal.Rptr. 422, 767 P.2d 689]
Shalant v. State Bar (1983) 33 Cal.3d 485 [198 Cal.Rptr. 374, 658 P.2d 737]
Bellm v. Bellia (1984) 150 Cal.App.3d 1036
 LA 487 (1996)
 rule prohibiting ex parte communications does not bar discussions initiated by employee of defendant corporation with government attorney for the purpose of disclosing that corporate officers are attempting to suborn perjury and obstruct justice
United States v. Talao (9th Cir. 2000) 222 F.3d 1133

With the media

absolute immunity does not protect prosecutors for comments made to the media
Milstein v. Cooley (9th Cir. 2001) 257 F.3d 1004

COMMUNICATION WITH A REPRESENTED PARTY

Rule 7-103, Rules of Professional Conduct (operative until May 26, 1989)
 Rule 2-100, Rules of Professional Conduct (operative as of May 27, 1989)
 18 A.L.R.2d 1410; 1 A.L.R.2d 1115

COMPETENCE [See Abandonment. Attorney-client relationship. Ineffective assistance of counsel. Neglect. Professional liability. Prosecutorial misconduct. Trial conduct.]

Business and Professions Code section 6067
 Rule 6-101, Rules of Professional Conduct (operative until May 26, 1989)
 Rule 3-110, Rules of Professional Conduct (operative as of May 27, 1989)
Calvert v. State Bar (1991) 54 Cal.3d 765
Conroy v. State Bar (1991) 53 Cal.3d 495
Martin v. State Bar (1991) 52 Cal.3d 1055
King v. State Bar (1990) 52 Cal.3d 307
Silva-Vidor v. State Bar (1989) 49 Cal.3d 1071
Davis v. State Bar (1983) 33 Cal.3d 231, 240-241 [188 Cal.Rptr. 441]
Lewis v. State Bar (1981) 28 Cal.3d 683, 688 [170 Cal.Rptr. 634, 621 P.2d 258]
Olquin v. State Bar (1980) 28 Cal.3d 195, 198
Inniss v. State Bar (1978) 20 Cal.3d 552, 557 [143 Cal.Rptr. 408, 573 P.2d 852]
Ridley v. State Bar (1972) 6 Cal.3d 551, 560 [99 Cal.Rptr. 873, 493 P.2d 105]
Simmons v. State Bar (1970) 2 Cal.3d 719, 729 [87 Cal.Rptr. 368, 470 P.2d 352]
Grove v. State Bar (1967) 66 Cal.2d 680, 683-685 [58 Cal.Rptr. 564, 427 P.2d 164]
Call v. State Bar (1955) 45 Cal.2d 104, 110-111 [287 P.2d 761]
In re O.S. (2002) 102 Cal.App.4th 1402 [126 Cal.Rptr.2d 571]
In re Gadda (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 416
In re Valinoti (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 498
In the Matter of Bailey (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 220
In the Matter of Moriarty (Review Dept. 1999) 4 Cal. State Bar Ct. Rptr. 9
In the Matter of Doran (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 871
In the Matter of Greenwood (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 831
In the Matter of Kaplan (Review Dept. 1996) 3 Cal. State Bar Ct. Rptr. 547
In the Matter of Respondent G (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 175
In the Matter of Nunez (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 196
In the Matter of Cacioppo (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 128
In the Matter of Ward (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 47
In the Matter of Collins (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 1
In the Matter of Robins (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 708

COMPETENCE

In the Matter of Frazier (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 676

In the Matter of Koehler (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 615

In the Matter of Bouyer (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 404

Enriquez v. Smyth (1985) 173 Cal.App.3d 691, 696-698 [219 Cal.Rptr. 267]

Accepting legal employment without sufficient time, resources or ability to perform the services with competence

In the Matter of Frazier (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 676

Acquiring sufficient learning of governing laws is needed when a newly licensed attorney begins practice in a particular field of law

In re Valinoti (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 498

Acts of privately retained counsel and publicly appointed counsel should be measured by the same standards of care, except as otherwise provided by statute

Barner v. Leeds (2000) 24 Cal.4th 676 [102 Cal.Rptr.2d 97]

Alcohol abuse

incapacity to attend to law practice

- enrollment as inactive member
 - Business and Professions Code section 6007 (b)
- jurisdiction of the courts
 - Business and Professions Code sections 6190-6190.6
- unfinished client business due to
 - Business and Professions Code section 6190

Lawyers Personal Assistance Program of the State Bar of California

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Telephone: (415) 502-7290

for information about program, contact:

Office of Professional Competence, Planning & Development

Telephone: (415) 538-2107

Attorney prepares will and receives a substantial gift

LA 462

Bonus program for public agency attorneys tied to savings by agency

SD 1997-2

Burden of proof in malpractice action

attorney charged with spoilation of evidence must prove that the attorney's negligence did not result in the loss of a meritorious case

Galanek v. Wismar (1998) 68 Cal.App.4th 1417 [81 Cal.Rptr.2d 236]

Cessation of law practice leaving unfinished client matter

death

Business and Professions Code section 6180

disbarment

Business and Professions Code section 6180

inactive status

Business and Professions Code section 6180

jurisdiction of the courts

Business and Professions Code sections 6180-6180.14

resignation

Business and Professions Code section 6180

suspension

Business and Professions Code section 6180

Client's instructions intentionally ignored

+In the Matter of Aguiluz (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 32

Communication with clients

Lister v. State Bar (1990) 51 Cal.3d 1117

Hartford v. State Bar (1990) 50 Cal.3d 1139

Layton v. State Bar (1990) 50 Cal.3d 889

In re O.S. (2002) 102 Cal.App.4th 1402 [126 Cal.Rptr.2d 571]

People v. Guillen (1985) 172 Cal.App.3d 29, 36, fn.6

In the Matter of Bailey (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 220

In the Matter of Dahlz (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 269

In the Matter of Freydl (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 349

In the Matter of Phillips (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 315

In the Matter of Greenwood (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 831

In the Matter of Hinden (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 657

In the Matter of Sullivan, II (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 608

In the Matter of Johnston (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 585

In the Matter of Cacioppo (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 128

LA 497 (1999)

ability to communicate with non-English speaking clients

Delgado v. Lewis (9th Cir. 2000) 223 F.3d 976

In the Matter of Whitehead (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 354

CAL 1984-77

inattention to the needs of a client and a failure to communicate are proper grounds for discipline

Spindell v. State Bar (1975) 13 Cal.3d 253, 260

In the Matter of Hagen (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 153

instructions during deposition not to answer sanctionable

Stewart v. Colonial Western Agency, Inc. (2001) 87 Cal.App.4th 1006 [105 Cal.Rptr.2d 115]

representation of a minor

LA 504 (2000)

Criminal matter

abandonment of client

In re Sanders (1999) 21 Cal.4th 697 [87 Cal.Rptr.2d 899]

malpractice

Coscia v. McKenna & Cuneo (2001) 25 Cal.4th 1194 [108 Cal.Rptr.2d 471]

Wiley v. County of San Diego (1998) 19 Cal.4th 532 [79 Cal.Rptr.2d 672]

Lynch v. Warwick (2002) 95 Cal.App.4th 267 [115 Cal.Rptr.2d 391]

three strikes

*Garcia v. Superior Court (1995) 40 Cal.App.4th 552 [46 Cal.Rptr.2d 913]

SD 1995-1

Defense counsel

People v. Howard (1986) 182 Cal.App.3d 670, 674 [227 Cal.Rptr. 362]

People v. Saldana (1984) 157 Cal.App.3d 443, 461-462

bizarre closing argument prejudicial to criminal defendant and co-defendant

People v. Diggs (1986) 177 Cal.App.3d 958

Delay in handling of client's matter amounts to reckless incompetence

In the Matter of Dahlz (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 269

In the Matter of Johnson (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 179

In the Matter of Bach (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 631

Dishonesty

In the Matter of Moriarty (Review Dept. 1999) 4 Cal. State Bar Ct. Rptr. 9

Dual capacity as defense counsel and interpreter

People v. Guillen (1985) 172 Cal.App.3d 29, 36 fn.6 [218 Cal.Rptr. 113]

Duties

Chefsky v. State Bar (1984) 36 Cal.3d 116, 120 [202 Cal.Rptr. 349]

special appearing attorney owes a duty of care to the litigant

Streit v. Covington & Crowe (2000) 82 Cal.App.4th 441 [82 Cal.Rptr.2d 193]

Duty to advise client of reasonably apparent legal problems outside the scope of representation

LA 502 (1999)

COMPETENCE

Duty to protect client interest by asserting proper objections and consulting with client where appropriate to fulfill duty of competent representation

LA 497 (1999)

Failure to adequately represent client's interest in land sale

Guzzetta v. State Bar (1987) 43 Cal.3d 962 [239 Cal.Rptr. 675]

Failure to adequately supervise

adequate office procedures and staff training

In re Valinoti (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 498

attorney employees

Bernstein v. State Bar (1990) 50 Cal.3d 221, 231

In re Gadda (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 416

In the Matter of Hinden (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 657

non-attorney employees

In re Gadda (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 416

In re Valinoti (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 498

In the Matter of Phillips (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 315

public defender's supervision of separate alternate public defender office

CAL 2002-158

violation of attorney's oath

Business and Professions Code section 6067

Black v. State Bar (1972) 7 Cal.3d 676, 692 [103 Cal.Rptr. 288, 499 P.2d 968]

Vaughn v. State Bar (1972) 6 Cal.3d 847, 857-858 [100 Cal.Rptr. 713, 494 P.2d 1257]

Moore v. State Bar (1964) 62 Cal.2d 74, 81 [41 Cal.Rptr. 161, 396 P.2d 577]

Matter of Steele (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 708

Matter of Hinden (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 657

CAL 1997-150

Failure to advise client of other claims

Garretson v. Harold I. Miller (2002) 99 Cal.App.4th 563 [121 Cal.Rptr.2d 317]

Lockley v. Law Office of Cantrell, Green, Pekich, Cruz & McCort (2001) 91 Cal.App.4th 875 [110 Cal.Rptr.2d 877]

Nichols v. Keller (1993) 15 Cal.App. 4th 1672 [19 Cal.Rptr.2d 601]

Failure to advise/misadvise re: immigration consequences of guilty plea

In re Resendiz (2001) 25 Cal.4th 230 [105 Cal.Rptr.2d 431]

Failure to request for reversal of judgment

In re Joyleaf W. (1984) 150 Cal.App.3d 865 [198 Cal.Rptr. 114]

Failure to deliver trust amendment to trustee before death of settlor

Lombardo v. Huysentruyt (2001) 91 Cal.App.4th 656 [110 Cal.Rptr.2d 691]

Failure to file timely notice of appeal

Canales v. Roe (9th Cir. 1998) 151 F.3d 1226 [949 F.Supp. 762]

Failure to interview and call witnesses

Lord v. Wood (9th Cir. 1999) 184 F.3d 1083

Failure to investigate potential client fraud

Federal Deposit Insurance Corporation v. O'Melveny & Myers (9th Cir. 1992) 969 F.2d 744

Failure to overrule criminal defendant's decision to call witness not incompetent

People v. Galan (1989) 213 Cal.App.3d 864

Failure to provide competent legal services in immigration matters

In re Gadda (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 416

In re Valinoti (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 498

Failure to pursue breach of contract action on behalf of client

Lockley v. Law Office of Cantrell, Green, Pekich, Cruz & McCort (2001) 91 Cal.App.4th 875 [110 Cal.Rptr.2d 877]

Failure to return client's multiple telephone messages

In re O.S. (2002) 102 Cal.App.4th 1402 [126 Cal.Rptr.2d 571]

Failure to serve answer repeatedly and in violation of court order

Community Dental Services v. Tani (2002) 282 F.3d 1164

Failure to suppress evidence

People v. Howard (1986) 182 Cal.App.3d 670, 674 [227 Cal.Rptr. 362]

Failure to take action to set aside default judgment

Moore v. State Bar (1964) 62 Cal.2d 74, 78 [41 Cal.Rptr. 161, 396 P.2d 577]

Hyland v. State Bar (1963) 59 Cal.2d 765, 772 [31 Cal.Rptr. 329, 382 P.2d 369]

Cheleden v. State Bar (1942) 20 Cal.2d 133, 138 [124 P.2d 1]

Failure to take steps to establish paternity

In re O.S. (2002) 102 Cal.App.4th 1402 [126 Cal.Rptr.2d 571]

Failure to use reasonable skill and diligence

Sands v. State Bar (1989) 49 Cal.3d 919

Gold v. State Bar (1989) 49 Cal.3d 908

Baker v. State Bar (1989) 49 Cal.3d 804

Gary v. State Bar (1988) 44 Cal.3d 820 [244 Cal.Rptr. 482]

Arden v. State Bar (1987) 43 Cal.3d 713 [239 Cal.Rptr. 68]

Franklin v. State Bar (1986) 41 Cal.3d 700

Stuart v. State Bar (1985) 40 Cal.3d 838, 842 [221 Cal.Rptr. 557]

Marcus v. State Bar (1980) 27 Cal.3d 199 [165 Cal.Rptr. 121, 611 P.2d 462]

Lombardo v. Huysentruyt (2001) 91 Cal.App.4th 656 [110 Cal.Rptr.2d 691]

Kinnamon v. Staitman & Synder (1977) 66 Cal.App.3d 893, 903 [136 Cal.Rptr. 321]

Lerette v. Dean Witter Organization, Inc. (1976) 60 Cal.App.3d 573, 577 [131 Cal.Rptr. 592]

In the Matter of Dahlz (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 269

In the Matter of Freydl (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 349

In the Matter of Phillips (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 315

In the Matter of Johnson (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 179

In the Matter of Aulakh (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 690

In the Matter of Hinden (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 657

Failure to advise/misadvise re: immigration consequences of guilty plea

Streit v. Covington & Crowe (2000) 82 Cal.App.4th 441 [82 Cal.Rptr.2d 193]

Gross negligence

violation of attorney's oath

Business and Professions Code section 6067

Black v. State Bar (1972) 7 Cal.3d 676, 692 [103 Cal.Rptr. 288, 499 P.2d 968]

Vaughn v. State Bar (1972) 6 Cal.3d 847, 859 [100 Cal.Rptr. 713, 494 P.2d 1257]

Demain v. State Bar (1970) 3 Cal.3d 381, 387 [90 Cal.Rptr. 420, 475 P.2d 652]

Simmons v. State Bar (1970) 2 Cal.3d 719 [87 Cal.Rptr. 368, 470 P.2d 352]

Grove v. State Bar (1967) 66 Cal.2d 680 [58 Cal.Rptr. 564, 427 P.2d 164]

Clark v. State Bar (1952) 39 Cal.2d 161, 174 [246 P.2d 1]

Stephens v. State Bar (1942) 19 Cal.2d 580

Waterman v. State Bar (1936) 8 Cal.2d 17, 19-20

Marsh v. State Bar (1930) 210 Cal. 303, 307

-default judgment may be set aside when attorney is grossly negligent which resulted in the judicial system losing credibility and appearance of fairness and an innocent party suffers drastic consequences

Community Dental Services v. Tani (2002) 282 F.3d 1164

COMPETENCE

Incapacity to attend to law practice

inactive enrollment

Business and Professions Code section 6007

-alcohol addiction

Business and Professions Code section 6007(b)

-conservator appointed on account of mental condition

Business and Professions Code section 6007(a)

-drugs, addiction

Business and Professions Code section 6007(b)

-guardian appointed on account of mental condition

Business and Professions Code section 6007(a)

-illness

Business and Professions Code section 6007(b)

-incompetent, mentally

Business and Professions Code section 6007(a)

-insane, following judicial determination of

Business and Professions Code section 6007(a)

-involuntary treatment required

Business and Professions Code section 6007(a)

-mental illness

Business and Professions Code section 6007(b)

unfinished client matters

-alcohol, excessive use of

Business and Professions Code section 6190

-drugs, excessive use of

Business and Professions Code section 6190

-infirmary

Business and Professions Code section 6190

-jurisdiction of the courts

Business and Professions Code sections 6190-6190.6

-mental illness

Business and Professions Code section 6190

-physical illness

Business and Professions Code section 6190

Incompetent representation of counsel

basis for reversal of judgment

-report by clerk to State Bar

Business and Professions Code section 6086.7

specially appearing attorney owes a duty of care to the litigant

Streit v. Covington & Crowe (2000) 82 Cal.App.4th 441 [82 Cal.Rptr.2d 193]

Lack of zealous defense

failure to investigate and introduce exculpatory evidence at trial

Hart v. Gomez (9th Cir. 1999) 174 F.3d 1067

Lack time and resources to represent pro bono client

Segal v. State Bar (1988) 44 Cal.3d 1077 [245 Cal.Rptr. 404]

Yarbrough v. Superior Court (1985) 39 Cal.3d 197 [216 Cal.Rptr. 425]

Cunningham v. Superior Court (1986) 177 Cal.App.3d 336, 353-355

Licensed attorneys who are not active members of the State Bar of California

effect on underlying matter

People v. Ngo (1996) 14 Cal.4th 30 [57 Cal.Rptr.2d 456]

*People v. Barillas (1996) 45 Cal.App.4th 1233 [53 Cal.Rptr.2d 418]

People v. Medler (1986) 177 Cal.App.3d 927 [223 Cal.Rptr. 401]

Gomez v. Roney (1979) 88 Cal.App.3d 274 [151 Cal.Rptr. 756]

federal courts may require membership in State Bar of California to ensure a uniform minimum level of competence for lawyers

Russell v. Hug (9th Cir. 2002) 275 F.3d 812

Limited preparation does not affect

LA 379 (1979)

Mere ignorance of law insufficient

Zitny v. State Bar (1966) 64 Cal.2d 787 [51 Cal.Rptr. 825, 415 P.2d 521]

Griffith v. State Bar (1953) 40 Cal.2d 470, 476

Friday v. State Bar (1943) 23 Cal.2d 501, 505-508

Miscalendarling of a five-year statute of limitation period

In the Matter of Ward (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 47

Negligent legal representation by itself does not prove misconduct

In the Matter of Torres (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 138

Obligation to represent client competently not alleviated by a conflict of interest waiver

CAL 1989-115

Pro bono clients

Segal v. State Bar (1988) 44 Cal.3d 1077 [245 Cal.Rptr. 404]

Reckless behavior by attorney

In re Gadda (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 416

In re Valinoti (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 498

In the Matter of Lantz (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 126

In the Matter of Moriarty (Review Dept. 1999) 4 Cal. State Bar Ct. Rptr. 9

failure to respond to discovery requests, oppose dismissal motion, and refile case

In the Matter of Johnson (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 179

Repeated failure to provide competent legal services

In re Gadda (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 416

In re Valinoti (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 498

In the Matter of Freydl (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 349

In the Matter of Johnson (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 179

Representation of a minor client in a dependency proceeding

Reversal of judgment in judicial proceeding

based upon incompetent representation

-report by clerk to State Bar

Business and Professions Code section 6086.7

Sexual relations with client

Rule 3-120, Rules of Professional Conduct (operative as of September 14, 1992)

Business and Professions Code section 6106.9

affecting representation

CAL 1987-92

Suspended attorney engaged in unlawful practice of law may not be charged with failure to act competently

In the Matter of Taylor (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 563

COMPLAINT

Business and Professions Code section 6043.5

Business and Professions Code section 6094

CONFIDENCES OF THE CLIENT [See Attorney-client relationship. Conflict of interest, client.]

Business and Professions Code section 6068(e)

Code of Civil Procedure section 2016.

Evidence Code section 950 et. seq.

Rules 4-101 and 5-102(B), Rules of Professional Conduct (operative until May 26, 1989)

Rules 3-310(D) and 3-310, Rules of Professional Conduct (operative as of May 27, 1989)

Tomblin v. Hill (1929) 206 Cal. 689, 693-694

Matter of Danford (1910) 157 Cal. 425, 429 [108 P.322]

Jacuzzi v. Jacuzzi Bros., Inc. (1963) 218 Cal.App.2d 24, 28 [32 Cal.Rptr. 188]

LA 506 (2001), LA 403 (1982), LA 389 (1981)

Assertion of attorney-client privilege

In re Polos (1984) 154 Cal.App.3d 448, 457

Attorney opinion does not reveal any protected information

*People v. Bolden (1983) 99 Cal.App.3d 375 [160 Cal.Rptr. 268]

Attorney-client disagreement as to claim or defense

In re Atchley (1957) 48 Cal.2d 408, 418 [310 P.2d 15]

Attorney-client privilege, existence of

U.S. v. Bauer (9th Cir. 1997) 132 F.3d 504

United States v. Blackman (9th Cir. 1995) 72 F.3d 1418

Alexiou v. United States (9th Cir. 1994) 39 F.3d 973

CONFIDENCES OF THE CLIENT

- In re Grand Jury Subpoena (Horn) (9th Cir. 1992) 976 F.2d 1314, 1317
- Baird v. Koerner (9th Cir. 1960) 279 F.2d 623, 627
- People v. Kor (1954) 129 Cal.App.2d 436 [277 P.2d 94]
- court has obligation to rule on claim of privilege regarding documents seized from attorneys whether or not the attorneys are suspected of criminal conduct
- People v. Superior Court (Laff) (2001) 25 Cal.4th 703 [107 Cal.Rptr.2d 323]
- survives client's death
- Swidler & Berlin v. United States (1998) 524 U.S. 399 [118 S.Ct. 2081]
- Attorney-client privilege, scope
- People v. Canfield (1979) 12 Cal.3d 699, 705 [117 Cal.Rptr. 81, 527 P.2d 633]
- does not ordinarily protect the identity of the client
- U.S. v. Bauer (9th Cir. 1997) 132 F.3d 504
- People v. Chapman (1984) 36 Cal.3d 98, 110
- broadier than Fifth Amendment's protection in a federal investigation
- Swidler & Berlin v. United States (1998) 524 U.S. 399 [118 S.Ct. 2081]
- confidential communications of documents that are available to the public and information that may be known to others
- In the Matter of Johnson (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 179
- identity of current clients not disclosed to third parties and client specific information regarding funds held by the attorney in a client trust account need not be disclosed to creditor by attorney debtor
- Hooser v. Superior Court (2001) 84 Cal.App.4th 997 [101 Cal.Rptr.2d 341]
- not limited to litigation communications
- STI Outdoor v. Superior Court (Eller Media Co.) (2001) 91 Cal.App.4th 334 [109 Cal.Rptr.2d 865]
- report prepared by police officers in the performance of their duties are public record and are not privileged
- Green & Shinee v. Superior Court (2001) 88 Cal.App.4th 532 [105 Cal.Rptr.2d 886]
- source of funds in client trust account
- SF 1974-3
- Attorney-client relationship, existence of
- Davis v. State Bar (1983) 33 Cal.3d 231 [188 Cal.Rptr. 441, 655 P.2d 1276]
- Arden v. State Bar (1959) 52 Cal.2d 310, 315 [341 P.2d 6]
- People v. Thoi (1989) 213 Cal.App. 3d 689 [261 Cal.Rptr. 789]
- Miller v. Metzinger (1979) 91 Cal.App.3d 31 [154 Cal.Rptr. 22]
- Meehan v. Hopps (1956) 144 Cal.App.2d 284, 287 [301 P.2d 10]
- Attorney-inmate consultation
- People v. Torres (1990) 218 Cal.App.3d 700 [267 Cal.Rptr. 213]
- Attorney-inmate letters
- In re Jordan (1974) 12 Cal.3d 575 [116 Cal.Rptr. 371]
- In re Jordan (1972) 7 Cal.3d 930 [103 Cal.Rptr. 849]
- In re Gonzales (1989) 212 Cal.App.3d 459
- Attorney's affirmative acts which further unlawful client conduct not subject to duty to maintain confidences
- In re Young (1989) 49 Cal.3d 257 [261 Cal.Rptr. 59]
- Bankruptcy proceedings
- attorney cannot use confidences of former client to challenge client's discharge of fees owed
- In re Rindlisbacher (9th Cir. BAP 1998) 225 B.R. 180 [33 Bankr.Ct.Dec. 258, 2 Cal.Bankr.Ct.Rep. 43]
- LA 452
- Billing information
- United States v. Amlani (9th Cir. 1999) 169 F.3d 1189
- CAL 1971-25, LA 456, SF 1984-1
- Business checks payable to a client or to others on the client's behalf may not be privileged
- Gordon, III v. Superior Court (1997) 55 Cal.App.4th 1546 [65 Cal.Rptr.2d 53]
- Child dependency proceedings
- duty to follow a minor client's instruction not to disclose confidential information
- LA 504 (2000)
- "Chinese wall"
- County of Los Angeles v. United States District Court (Forsyth) (9th Cir. 2000) 223 F.3d 990
- San Gabriel Basin Water Quality Authority v. Aerojet-General Corp. (C.D. Cal. 2000) 105 F.Supp.2d 1095
- Atasi Corp. v. Seagate Technology (9th Cir. 1988) 847 F.2d 826
- People v. Christian (1994) 41 Cal.App.4th 986
- Henriksen v. Great American Savings and Loan (1992) 11 Cal.App.4th 109 [14 Cal.Rptr.2d 184]
- In re Complex Asbestos Litigation (1991) 232 Cal.App.3d 572 [283 Cal.Rptr. 732]
- Higdon v. Superior Court (1991) 227 Cal.App.3d 1667 [278 Cal.Rptr. 588]
- Klein v. Superior Court (1988) 198 Cal.App.3d 894
- Raley v. Superior Court (1983) 149 Cal.App.3d 1042 [197 Cal.Rptr. 232]
- Chambers v. Superior Court (1981) 121 Cal.App.3d 893, 899 [175 Cal.Rptr. 575]
- CAL 2002-158, CAL 1998-152
- Client cannot be located
- CAL 1989-111
- Client name protected by privilege when disclosure of client's name might implicate client's rights of privacy
- Hooser v. Superior Court (2001) 84 Cal.App.4th 997 [101 Cal.Rptr.2d 341]
- Client name protected by privilege when disclosure of client's name might subject client to investigation for civil or criminal liability
- Hays v. Wood (1979) 25 Cal.3d 772
- People v. Chapman (1984) 36 Cal.3d 98, 110
- Client need not show actual disclosure
- Woods v. Superior Court (1983) 149 Cal.App.3d 931
- Client to entertainment industry
- LA 409 (1983)
- Client trust fund records may be disclosed for good cause by State Bar for attorney disciplinary proceedings
- Doyle v. State Bar (1982) 32 Cal.3d 12
- In the Matter of Member W (Review Dept. 1996) 3 Cal. State Bar Ct. Rptr. 535
- Client's confidence
- duty of lawyer to maintain inviolate
- Business and Professions Code section 6068(e)
- In the Matter of Johnson (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 179
- LA 422 (1983)
- Client's identity covered by attorney-client privilege
- U.S. v. Bauer (9th Cir. 1997) 132 F.3d 504
- Tedder & Associates v. United States (9th Cir. 1996) 77 F.3d 1166
- United States v. Blackman (9th Cir. 1995) 72 F.3d 1418
- In the Matter of the Grand Jury Subpoena Issue to Chesnoff (9th Cir. 1995) 62 F.3d 1144
- Ralls v. U.S. (9th Cir. 1995) 52 F.3d 223
- Alexiou v. United States (9th Cir. 1994) 39 F.3d 973
- In re Grand Jury Proceedings v. U.S. (9th Cir. 1994) 33 F.3d 1060
- In re Grand Jury Subpoena (Horn) (9th Cir. 1992) 976 F.2d 1314, 1317
- Hays v. Wood (1979) 25 Cal.3d 772 [160 Cal.Rptr. 102]
- Dole v. Milonas (9th Cir. 1989) 889 F.2d 885
- Baird v. Koerner (9th Cir. 1960) 279 F.2d 623
- Hooser v. Superior Court (2001) 84 Cal.App.4th 997 [101 Cal.Rptr.2d 341]
- Rosso, Johnson et al. v. Superior Court (1987) 191 Cal.App.3d 1514 [237 Cal.Rptr. 242]
- Co-defendants, representation of
- People v. Kerfoot (1960) 184 Cal.App.2d 622
- Communication by client
- Upjohn v. U.S. (1983) 449 U.S. 383, 393
- LA 417 (1983)
- by letter
- disclosing violation of probation by leaving jurisdiction
- LA 82 (1935)

CONFIDENCES OF THE CLIENT

Compelled disclosure of client's identity

Tedder & Associates v. United States (9th Cir. 1996) 77 F.3d 1166
United States v. Blackman (9th Cir. 1995) 72 F.3d 1418
In the Matter of the Grand Jury Subpoena Issue to Chesnoff (9th Cir. 1995) 62 F.3d 1144
Ralls v. U.S. (9th Cir. 1995) 52 F.3d 223
Alexiou v. United States (9th Cir. 1994) 39 F.3d 973
In re Grand Jury Proceedings v. U.S. (9th Cir. 1994) 33 F.3d 1060
In re Grand Jury Subpoena (Horn) (9th Cir. 1992) 976 F.2d 1314, 1317
United States v. Hirsch (9th Cir. 1986) 803 F.2d 493, 496, 497
Baird v. Koerner (9th Cir. 1960) 279 F.2d 623, 635
Rosso, Johnson, et al. v. Superior Court (1987) 191 Cal.App.3d 1514 [237 Cal.Rptr. 242]
*Olson v. Superior Court (1984) 157 Cal.App.3d 780, 796
 good faith requirement

*Olson v. Superior Court (1984) 157 Cal.App.3d 780, 796

Compelling testimony against client

In the Matter of the Grand Jury Subpoena Issue to Chesnoff (9th Cir. 1995) 62 F.3d 1144
Alexiou v. United States (9th Cir. 1994) 39 F.3d 973
In re Michaelson (9th Cir. 1975) 511 F.2d 882, 892
Baird v. Koerner (9th Cir. 1960) 279 F.2d 623, 628-635
McKnew v. Superior Court (1943) 23 Cal.2d 58, 61-62 [142 P.2d 1]
Hinds v. State Bar (1941) 19 Cal.2d 87, 92-93 [119 P.2d 134]
Ex parte McDonough (1915) 170 Cal. 230, 233 [149 P. 566]
People v. Johnson (1968) 258 Cal.App.2d 705, 710
Stearns v. Los Angeles City School Dist. (1966) 244 Cal.App.2d 696, 723 [53 Cal.Rptr. 482]
Hutson v. Superior Court (1962) 203 Cal.App.2d 687 [21 Cal.Rptr. 753]
People v. Morgan (1956) 140 Cal.App.2d 796, 803-804 [296 P.2d 75]

Confidences and secrets

Dixon v. State Bar (1982) 32 Cal.3d 728
Earl Schieb, Inc. v. Superior Court (1967) 253 Cal.App.2d 703, 706 [61 Cal.Rptr. 386]
Meehan v. Hopps (1956) 144 Cal.App.2d 284, 286 [301 P.2d 10]
Pacific Tel. & Tel. Co. v. Fink (1956) 141 Cal.App.2d 332 [296 P.2d 843]
In re Soale (1916) 31 Cal.App. 144, 152 [159 P. 1065]
 LA 493 (1998)

acquisition of

-telephone "hotline" taking legal inquiries from callers
 LA 449 (1988)

compelled testimony against client

United States v. Bank of California (N.D. Cal. 1976) 424 F.Supp. 220, 225
In re Navarra (1979) 93 Cal.App.3d 325 [155 Cal.Rptr. 522]

conflict of interests

Hays v. Wood (1979) 25 Cal.3d 772, 784 [160 Cal.Rptr. 102, 603 P.2d 19]
Commercial Standard Title Co. v. Superior Court (1979) 92 Cal.App.3d 934, 945 [155 Cal.Rptr. 393]

disclosure of clients, public officials

Rule 7-103, Rules of Professional Conduct
Hays v. Wood (1979) 25 Cal.3d 772, 784 [160 Cal.Rptr. 102, 603 P.2d 19]

duty to follow a minor client's instruction not to disclose confidential information

LA 504 (2000)

embarrassing facts and allegations

In the Matter of Johnson (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 179

presumption of shared confidences in a law firm

-rebuttable

County of Los Angeles v. United States District Court (Forsyth) (9th Cir. 2000) 223 F.3d 990

standards of maintaining

LA 500 (1999)

Confidence of client in attorney

CAL 1987-93, CAL 1984-83

Confidential communication

defined

Evidence Code section 952
STI Outdoor v. Superior Court (Eller Media Co.) (2001) 91 Cal.App.4th 334 [109 Cal.Rptr.2d 865]
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Maxwell v. Superior Court (1982) 30 Cal.3d 606, 631 [180 Cal.Rptr. 177]
People ex rel Deukmejian v. Brown (1981) 29 Cal.3d 150, 156 [172 Cal.Rptr. 478]
Barber v. Municipal Court (1979) 24 Cal.3d 742, 752 [157 Cal.Rptr. 658]
In re Jordan (1974) 12 Cal.3d 575, 579-580 [116 Cal.Rptr. 371]
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People v. Lanigan (1943) 22 Cal.2d 569, 576 [140 P.2d 24]
Galbraith v. State Bar (1933) 218 Cal. 329, 333 [23 P.2d 291]
Anderson v. Eaton (1930) 211 Cal. 113, 116-117 [293 P. 788]
Johnson v. Superior Court (1984) 159 Cal.App.3d 573 [205 Cal.Rptr. 605]
People v. Johnson (1980) 105 Cal.App.3d 884, 890 [164 Cal.Rptr. 746]
Glade v. Superior Court (1978) 76 Cal.App.3d 738, 743 [143 Cal.Rptr. 119]
Ward v. Superior Court (1977) 70 Cal.App.3d 23, 31 [138 Cal.Rptr. 532]
Jeffrey v. Pounds (1977) 67 Cal.App.3d 6, 9 [136 Cal.Rptr. 373]
In re Charles L. (1976) 63 Cal.App.3d 760, 763 [132 Cal.Rptr. 840]
Goldstein v. Lees (1975) 46 Cal.App.3d 614, 619 [120 Cal.Rptr. 253]
Kraus v. Davis (1970) 6 Cal.App.3d 484, 490
Grove v. Grove Value & Regulator Co. (1963) 213 Cal.App.2d 46, 652 [29 Cal.Rptr. 150]
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 -telephone "hotline" taking legal inquiries from callers
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- duty to follow a minor client's instruction not to disclose confidential information
 LA 504 (2000)
- embarrassing facts and allegations
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- presumption of shared confidences in a law firm
 -rebuttable
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- Conservatorship proceedings
 attorney initiated conservatorship proceedings, absent client consent
 CAL 1989-112, LA 450 (1988), OR 95-002, SD 1978-1, SF 1999-2
- Corporation enjoys attorney-client privilege
United States v. Rowe (9th Cir. 1996) 96 F.3d 1294
Titmas v. Superior Court of Orange County (2001) 87 Cal.App.4th 738 [104 Cal.Rptr.2d 803]
Hoiles v. Superior Court (1984) 157 Cal.App.3d 1192, 1198 shareholder status does not in and of itself entitle an individual to unfettered access to corporate confidences and secrets
National Football League Properties, Inc. v. Superior Court (Raiders) (1998) 65 Cal.App.4th 100 [75 Cal.Rptr.2d 893]
Goldstein v. Lees (1975) 46 Cal.App.3d 614, 621 [120 Cal.Rptr. 253]
- shareholder's derivative action against corporation does not entitle shareholders to attorney-client privilege information
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- shareholder's derivative action against corporation's outside counsel cannot proceed because attorney-client privilege precludes counsel from mounting meaningful defense
McDermott, Will & Emory v. Superior Court (James) (2000) 83 Cal.App.4th 378 [99 Cal.Rptr.2d 622]
- Court order to produce privileged material
In the Matter of the Grand Jury Subpoena Issue to Chesnoff (9th Cir. 1995) 62 F.3d 1144
- compliance with court order does not moot further appeals claiming that the attorney-client privilege applies
Church of Scientology v. United States (1992) 504 U.S. 940 [112 S.Ct. 2273]
- court may require disclosure of information to rule on claim of privilege
 Evidence Code section 915
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Cornish v. Superior Court (1989) 209 Cal.App.3d 467 [257 Cal.Rptr. 383]
- federal court in camera review
In re Grand Jury Subpoena 92-1 (9th Cir. 1994) 31 F.3d 826
U.S. v. Zolin (1989) 491 U.S. 554 [109 S.Ct. 2619]
In re Grand Jury Investigation (9th Cir. 1992) 974 F.2d 1068
- law office property seized by law enforcement officers protected until trial court reviews all sealed documents
Geilim v. Superior Court (1991) 234 Cal.App.3d 166
- subpoena duces tecum which is overbroad and reaches materials covered by the attorney-client privilege is invalid
In re Grand Jury Subpoena Issue to Gerson S. Horn (9th Cir. 1992) 976 F.2d 1314
- test validity of court order
Roberts v. Superior Court (1973) 9 Cal.3d 330, 335-336 [107 Cal.Rptr. 309, 508 P.2d 309]
- trial court erred in finding that privilege was waived by disclosure of documents reasonably necessary to further the interests of counsel, clients, and third parties who were bound by an offer and acceptance
STI Outdoor v. Superior Court (Eller Media Co.) (2001) 91 Cal.App.4th 334 [109 Cal.Rptr.2d 865]
- Criminal case reciprocal discovery under the Crime Victim's Justice Reform Act upheld despite alleged interference with attorney work product privilege
Izazaga v. Superior Court (1991) 54 Cal.3d 356
- Cross examination of former client
- Hutson v. Superior Court (1962) 203 Cal.App.2d 687, 691 CAL 1980-52
- Cumis counsel
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First Pacific Networks, Inc. v. Atlantic Mutual Ins. Co. (N.D. Cal. 1995) 163 F.R.D. 574
San Gabriel Valley Water Company v. Hartford Accident and Indemnity Company (2000) 82 Cal.App.4th 1230 [98 Cal.Rptr.2d 807]
Assurance Co. of America v. Haven (1995) 32 Cal.App.4th 78 [38 Cal.Rptr.2d 25]
Blanchard v. State Farm Fire & Casualty (1991) 2 Cal.App.4th 345
Sheldon Appel Co. v. Albert & Olier (1989) 47 Cal.3d 863, 875 [254 Cal.Rptr. 336]
Foremost Ins. Co. v. Wilks (1988) 206 Cal.App.3d 251, 261 [253 Cal.Rptr. 596]
Native Sun Investment Group v. Tigor Title Ins. Co. (1987) 189 Cal.App.3d 1265, 1277
McGee v. Superior Court (1985) 176 Cal.App.3d 221, 227 [221 Cal.Rptr. 421]
- attorney-client relationship between independent Cumis counsel and carrier not created by § 2860
San Gabriel Basin Water Quality Authority v. Aerojet-General Corp. (C.D. Cal. 2000) 105 F.Supp.2d 1095
Assurance Co. of America v. Haven (1995) 32 Cal.App.4th 78 [38 Cal.Rptr.2d 25]
- compared to "monitoring counsel"
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- duty to disclose to insurer unprivileged information concerning insured's control over the litigation
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- insured and independent Cumis counsel retain right to privately communicate and to shield those communications from insurance carrier
San Gabriel Basin Water Quality Authority v. Aerojet-General Corp. (C.D. Cal. 2000) 105 F.Supp.2d 1095
First Pacific Networks, Inc. v. Atlantic Mutual Ins. Co. (N.D. Cal. 1995) 163 F.R.D. 574, 576, n. 1
- Deceased clients' confidences
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 LA 491 (1997), LA 414 (1983)
- disclosure of by court, by personal representative
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People v. Pena (1984) 151 Cal.App.3d 462, 480-481 [198 Cal.Rptr. 819]
Paley v. Superior Court (1955) 137 Cal.App.2d 450
- federal investigation
Swidler & Berlin v. United States (1998) 524 U.S. 399 [118 S.Ct. 2081]
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- Defined
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State Farm Fire and Casualty Co. v. Superior Court (1997) 54 Cal.App.4th 625 [62 Cal.Rptr.2d 834]
Shadow Traffic Network v. Superior Court (1994) 24 Cal.App.4th 1067 [29 Cal.Rptr.2d 693]
Aerojet-General Corp. v. Transport Indemnity Insurance (1993) 18 Cal.App.4th 996
In re Young (1989) 49 Cal.3d 257 [261 Cal.Rptr. 59]
Hoiles v. Superior Court (1984) 157 Cal.App.3d 1192, 1200
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LA 500 (1999), LA 498 (1999), LA 452 (1988), LA 400 (1982),
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Disclosure

General Dynamics Corp. v. Superior Court (1994) 7 Cal.4th 1164 [876 P.2d 487]
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Fox Searchlight Pictures, Inc., v. Paladino (2001) 89 Cal.App.4th 294 [106 Cal.Rptr.2d 906]
Solin v. O'Melveny & Myers, LLP (2001) 89 Cal.App.4th 451 [107 Cal.Rptr.2d 456]
Commercial Standard Title Co. v. Superior Ct. (1979) 92 Cal.App.3d 934, 945 [155 Cal.Rptr. 393]
LA 498 (1999), LA 400 (1982), LA 396 (1982), LA 394 (1982), LA 389 (1981)
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by corporate counsel
-criminal record of director to other directors
LA(l) 1965-14
-suspended status of corporation to court
Palm Valley Homeowners Association, Inc. v. Design MTC (2000) 85 Cal.App.4th 553 [102 Cal.Rptr.2d 350]
LA 408 (1982)
-unlawful acts by officers, directors, or executives
LA 353 (1976)
by legal services program to researcher
LA 378 (1978)
by personal representative
People v. Pena (1984) 151 Cal.App.3d 462, 480-481
client engaged in unlawful activity
U.S. v. Chen (9th Cir. 1996) 99 F.3d 1495
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LA 271 (1962)
client name [See Confidences of the client, client name.]
client trust account information
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LA 436 (1985)
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LA 452 (1988)
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consultation with an independent attorney regarding the client's case may be permitted
SD 1996-1
counsel for social welfare agency in reports to agency
LA 259 (1959), LA 254 (1958)
death of client
LA 300 (1967)
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OR 97-002
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CAL 1981-58
false accounting by client
SD 1990-2, SD 1983-10
false filing of bankruptcy petition
LA 422 (1983)

former client's perjury in continuing case
LA 386 (1977)
former client's threat of violence disclosed to intended victims
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future crime by client
Evidence Code section 956.5
U.S. v. Alexander (9th Cir.(Montana) 2002) 287 F.3d 811
Wells Fargo Bank v. Superior Court (Boltwood) (2000) 22 Cal.4th 201 [901 Cal.Rptr.2d 716]
General Dynamics Corp. v. Superior Court (1994) 7 Cal.4th 1164 [876 P.2d 487]
People v. Dang (2001) 93 Cal.App.4th 1293 [113 Cal.Rptr.2d 763]
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government use of testimony from a defendant's bankruptcy lawyer to show client defied lawyer's advice
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Rule 7-105(2), Rules of Professional Conduct
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-as means of informing the court as to the basis of motion for withdrawal
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-basis of motion for withdrawal
LA 498 (1999)
-of possible client perjury
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-conflict between client and interests of child
CAL 1976-37
-duty to follow a minor client's instruction not to disclose confidential information
LA 504 (2000)
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State Compensation Insurance Fund v. WPS, Inc. (1999) 70 Cal.App.4th 644 [82 Cal.Rptr.2d 799]
Aerojet-General Corp. v. Transport Indemnity Insurance (1993) 18 Cal.App.4th 996
K.L. Group v. Case, Kay & Lynch (9th Cir. 1987) 829 F.2d 909
SD 1987-3
-conversation between attorney and attorney's investigator inadvertently taped by police
People v. Benally (1989) 208 Cal.App.3d 900
incompetent client
LA 229 (1955)
indigent relative of client's is not indigent
LA 264 (1959)
insurance fraud
LA 329 (1972)
insurer's attorney has duty to include insured's independent counsel in settlement negotiations and to fully exchange information
Novak v. Low, Ball & Lynch (1999) 77 Cal.App.4th 278 [91 Cal.Rptr.2d 453]
mediator may not report sanctionable conduct of parties to court
Foxgate Homeowners' Association, Inc., v. Bramalea California, Inc. (2001) 26 Cal.4th 1 [108 Cal.Rptr.2d 642]
no disclosure between public defender's office and alternative public defender
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of assets not disclosed
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LA 504 (2000)
of confidences learned by attorney acting in dual capacity of real estate broker to client

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- LA 413 (1983)
- of confidential settlement agreement
 - In re Gillis (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 387
- of conflict between attorney and minor client
 - LA 504 (2000)
- of deceased client's demand of fraudulent accounting
 - LA 267 (1960)
- of employer's secrets when attorney represents employee-alien seeking permanent status under a labor certification preference visa
 - LA 465 (1991)
- of estate fraud
 - LA 259 (1959)
- of false medical billing
 - LA 498 (1999)
- of fees paid to IRS
 - SF 1975-5
- of former client
 - CAL 1992-126, CAL 1988-96, CAL 1980-52
 - LA 271 (1962)
 - threats of violence communicated to lawyer
 - U.S. v. Alexander (9th Cir. (Montana) 2002) 287 F.3d 811
 - People v. Dang (2001) 93 Cal.App.4th 1293 [113 Cal.Rptr.2d 763]
 - LA(l) 1947-2
 - to present counsel
 - LA(l) 1962-2
- of fraudulent act
 - against a third party
 - LA 389 (1982)
 - by client
 - CAL 1996-146, CAL 1988-96
 - LA 417 (1983), LA 329 (1972)
 - of third party regarding client
 - LA 422 (1984)
- of legal aid recipient to governing authority
 - LA 358 (1976)
- of refusal to make payments to escrow fund to research project
 - LA 378 (1978)
- of trust fund records
 - Doyle v. State Bar (1982) 32 Cal.3d 12
 - In the Matter of Member W (Review Dept. 1996) 3 Cal. State Bar Ct. Rptr. 535
- of whereabouts
 - of military deserter
 - LA(l) 1956-1
 - to enable service of process
 - fugitive's
 - LA(l) 1931-2
 - to public health department
 - LA(l) 1956-4
 - to tax board
 - LA 177 (1950)
- perjured testimony by client
 - Nix v. Whiteside (1986) 475 U.S. 157 [106 S.Ct. 988]
 - People v. Brown (1988) 203 Cal.App.3d 1335
 - CAL 1983-74
 - LA 386 (1981), LA 305 (1968)
- perjury of non-party witness
 - SD 1983-8
- pursuant to search warrant
 - Green & Shinee v. Superior Court (2001) 88 Cal.App.4th 532 [105 Cal.Rptr.2d 886]
- regarding breach of attorney-client duty asserted by former client
 - Evidence Code section 958
 - LA 396 (1982)
- sale of law practice
 - LA 361 (1976)
- securities fraud
 - LA 353 (1976)
- silence on attorney's part potentially criminal
 - LA 329 (1972)
- testimony by former co-defendant, called as the prosecution's key witness, impairs defense counsel's ability to cross-examine his former client regarding matters discussed in confidence during pre-trial joint defense meeting
 - United States v. Henke (9th Cir. 2000) 222 F.3d 633
- to administrative agency
 - LA 435 (1985), LA 177 (1950), LA(l) 1956-4
- to bail bondsman
 - In re Young (1989) 49 Cal.3d 257 [261 Cal.Rptr. 59]
- to Bar Examiners regarding name and activities of ex-client
 - LA 400 (1982)
- to charity regarding statistical information on clients referred to attorney by charity
 - LA 403 (1982)
- to client
 - attorney married to bailiff
 - CAL 1987-93
 - attorney married to court reporter
 - CAL 1987-93
 - witness is former colleague of attorney
 - CAL 1987-93
- to client's creditor
 - LA(l) 1954-4
- to collect fee from former client/debtor in bankruptcy proceedings
 - LA 452
- to data processing firm
 - CAL 1971-25
 - LA 423 (1983), LA 374 (1978)
- to Internal Revenue Service
 - any person engaged in a trade or business must report to the IRS the receipt in any year of \$10,000 or more in cash payments from any one person
 - I.R.C. sec. 6050(l)
 - United States v. Blackman (9th Cir. 1995) 72 F.3d 1418
- to legal aid society's Board of Directors
 - LA 358 (1976)
- to opposing counsel and to the court
 - law firm representing corporation has duty to disclose client's suspended status
 - Palm Valley Homeowners Association v. Design MTC (2000) 85 Cal.App.4th 553 [102 Cal.Rptr.2d 350]
- to own counsel
 - attorney plaintiff may not prosecute a lawsuit if client confidences would be disclosed unless statute removes the protection of the attorney-client privilege
 - General Dynamics Corp. v. Superior Court (1994) 7 Cal.4th 1164, 1190 [32 Cal.Rptr.2d 1]
 - Solin v. O'Melveny & Myers, LLP (2001) 89 Cal.App.4th 451 [107 Cal.Rptr.2d 456]
 - former in-house counsel may disclose employer-client confidences to her own attorneys to the extent relevant to her wrongful termination action
 - Fox Searchlight Pictures, Inc., v. Paladino (2001) 89 Cal.App.4th 294 [106 Cal.Rptr.2d 906]
 - LA(l) 1961-3
- to prosecutor pursuant to a search warrant
 - People v. Superior Court (Laff) (2001) 25 Cal.4th 703 [107 Cal.Rptr.2d 323]
- to protect self
 - in tax audit
 - LA(l) 1974-12
- to third party who will fund litigation
 - LA 500 (1999)
- to third party who will pay client's legal fees
 - LA 456
- violation of court order by third party
 - LA 394 (1982)
- when known to others
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 - LA(l) 1971-3

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- where attorney believes innocent person wrongly convicted of felony
 LA 389 (1981)
- will
 -contents after incompetency of client
 LA 229 (1955)
- withdrawal from case by attorney at sentencing phase
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- Discovery in
Holm v. Superior Court (1954) 42 Cal.2d 500, 506 [267 P.2d 1025]
Scottsdale Insurance Company v. Superior Court (1997) 59 Cal.App.4th 263 [69 Cal.Rptr.2d 112]
Gene Compton's Corp. v. Superior Court (1962) 205 Cal.App.2d 365, 372 [23 Cal.Rptr. 250]
 employer did not waive attorney-client or attorney work product protections by providing sex discrimination claimant substantial discovery of employer's non-attorney in-house investigation report
Kaiser Foundation Hospitals v. Superior Court (1998) 66 Cal.App.4th 1217
- identity of current clients not disclosed to third parties and client specific information regarding funds held by the attorney in a client trust account need not be disclosed to creditor by attorney debtor
Hooser v. Superior Court (2001) 84 Cal.App.4th 997 [101 Cal.Rptr.2d 341]
- tax fraud of opposing party
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- Disqualification
 actual possession need not be proven – test
Civil Service Comm. v. Superior Court (1985) 163 Cal.App.3d 70 [209 Cal.Rptr. 159]
Global Van Lines v. Superior Court (1983) 144 Cal.App.3d 483, 489-490 [192 Cal.Rptr. 609]
 attorney never performed services for former client of attorney's former firm
San Gabriel Basin Water Quality Authority v. Aerojet-General Corp. (C.D. Cal. 2000) 105 F.Supp.2d 1095
Dieter v. Regents of the University of California (E.D. Cal. 1997) 963 F.Supp. 908
Adams v. Aerojet-General Corp. (2001) 86 Cal.App.4th 1324 [104 Cal.Rptr.2d 116]
 automatic disqualification is not appropriate for mere exposure to the opposing party's confidential information with no evidence that the attorney actually received or used such information
Neal v. Health Net, Inc. (2002) 100 Cal.App.4th 831 [123 Cal.Rptr.2d 202]
- because of possibility of breach
Kearns v. Fred Lavery Porsche Audi Co. (C.A. Fed. 1984) 745 F.2d 600, 603
American Airlines v. Sheppard Mullin, Richter & Hampton (2002) 96 Cal.App.4th 1017 [117 Cal.Rptr.2d 685]
 defense counsel disqualified when former co-defendant is called as the prosecution's key witness and counsel's ability to cross-examine former client is impaired
United States v. Henke (9th Cir. 2000) 222 F.3d 633
 marital relationship does not create assumption that lawyers violate duty of confidentiality
DCH Health Services Corp. v. Waite (2002) 95 Cal.App.4th 829 [115 Cal.Rptr.2d 847]
- presumption of shared confidences in a law firm
 -rebuttable
County of Los Angeles v. United States District Court (Forsyth) (9th Cir. 2000) 223 F.3d 990
- vicarious disqualification where "of counsel" attorney and law firm represented opposing parties and where "of counsel" attorney obtained confidential information and provided legal services to client
People ex rel. Dept. of Corporations v. Speedee Oil Change Systems (1999) 20 Cal.4th 1135 [86 Cal.Rptr.2d 816]
- Distinguished from attorney-client privilege
People v. Dang (2001) 93 Cal.App.4th 1293 [113 Cal.Rptr.2d 763]
Industrial Indem. Co. v. Great American Ins. Co. (1977) 73 Cal.App.3d 529, 536, fn.5
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 OR 97-002
- District attorney
 deputy district attorney cannot assert attorney-client privilege as to documents prepared in official capacity when the attorney is subject of criminal investigation
People ex rel. Lockyer v. Superior Court (Pfingst) (2000) 83 Cal.App.4th 387 [99 Cal.Rptr.2d 646]
- Dual professions, attorney engaged in
 CAL 1999-154
- Duty of loyalty to client may require attorney's limited response to judge's questions absent an affirmative duty to inform the court
 OR 95-001
- Duty to divulge client fraud
Hinds v. State Bar (1941) 19 Cal.2d 87, 92-93
 LA 436 (1985)
- Duty to former client
Trone v. Smith (9th Cir. 1980) 621 F.2d 994, 998-999
- Duty to protect client confidences and secrets
 after death of client
Swidler & Berlin v. United States (1998) 524 U.S. 399 [118 S.Ct. 2081]
 LA 491 (1997), LA 414 (1983)
 after termination of attorney-client relationship
In re Marriage of Zimmerman (1993) 16 Cal.App.4th 556 [20 Cal.Rptr.2d 132]
Elan Transdermal Limited v. Cygnus Therapeutic Systems (N.D. Cal. 1992) 809 F. Supp. 1383
Woods v. Superior Court (1983) 149 Cal.App.3d 931 [197 Cal.Rptr. 185]
People ex rel. Deukmejian v. Brown (1981) 29 Cal.3d 150, 155 [172 Cal.Rptr. 478, 480]
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 LA 498 (1999), LA 452 (1988), LA 400 (1982), LA 386 (1980)
 extends to preliminary consultations by a prospective client with a view to retention of that lawyer although employment does not result
People ex rel. Dept. of Corporations v. Speedee Oil Change Systems (1999) 20 Cal.4th 1135 [86 Cal.Rptr.2d 816]
 not limited to proceedings at which testimony may be compelled by law
People v. Superior Court (Laff) (2001) 25 Cal.4th 703 [107 Cal.Rptr.2d 323]
 where third party funds lawsuit in exchange for interest in proceeds
 LA 500 (1999)
- Duty to reveal the fruits of crime in his possession to the prosecution
 CAL 1984-76
- E-mail
 OR 97-002
- Employee who also works for other lawyers
 Penal Code section 135
 CAL 1979-50
 educate employee re maintaining clients' confidences
 CAL 1979-50
- Evidence of crime in lawyer's possession
United States v. Kellington (9th Cir. Or. 2000) 217 F.3d 1084
People v. Picul (1982) 31 Cal.3d 731 [183 Cal.Rptr. 685]
People v. Meredith (1981) 29 Cal.3d 682, 695
People v. Superior Court (Fairbank) (1987) 192 Cal.App.3d 32, 39
People v. Lee (1970) 3 Cal.App.3d 514 [83 Cal.Rptr. 715]
 CAL 1986-89, CAL 1984-76, LA 466

CONFIDENCES OF THE CLIENT

Exceptions to rule of confidentiality

Fox Searchlight Pictures, Inc., v. Paladino (2001) 89 Cal.App.4th 294 [106 Cal.Rptr.2d 906]
American Mutual Liability Insurance Co. v. Superior Ct. (1974) 38 Cal.App.3d 579, 595-596 [113 Cal.Rptr. 561]
 LA 504 (2000), LA 498 (1999), LA 394 (1982)

Exceptions to the attorney-client privilege codified in the Evidence Code modify the duty of confidentiality under Bus. & Prof. Code § 6068(e)

People v. Dang (2001) 93 Cal.App.4th 1293 [113 Cal.Rptr.2d 763]

Expert

disqualification may be required if the expert possesses confidential information material to the pending litigation
Toyota Motor Sales, U.S.A., Inc. v. Superior Court (1996) 46 Cal.App.4th 778 [54 Cal.Rptr.2d 22]

disqualification of expert witness interviewed but not retained by opposing party is abuse of discretion

Western Digital Corp. v. Superior Court (1998) 60 Cal.App.4th 1471 [71 Cal.Rptr.2d 179]

expert's opinion

CAL 1981-58

law firm's retention of expert previously rejected by opposing party justifies disqualification from further representation

Shadow Traffic Network v. Superior Court (1994) 24 Cal.App.4th 1067 [29 Cal.Rptr.2d 693]

Extends to information learned from third parties resulting from confidential communications with client

People v. Barr (1984) 159 Cal.App.3d 1129, 1159-1160

Fee agreement considered confidential communication

Business and Professions Code section 6149
 LA 456

Fee arrangement not subject to attorney-client privilege, no revelation of confidential information

U.S. v. Bauer (9th Cir. 1997) 132 F.3d 504

United States v. Blackman (9th Cir. 1995) 72 F.3d 1418

Ralls v. U.S. (9th Cir. 1995) 52 F.3d 223

In re Grand Jury Proceedings v. U.S. (9th Cir. 1994) 33 F.3d 1060

Tornay v. U.S. (9th Cir. 1988) 840 F.2d 1424

U.S. v. Hirsch (9th Cir. 1986) 803 F.2d 493

Phaksuan v. United States (9th Cir. 1984) 722 F.2d 591, 594

U.S. v. Sherman (9th Cir. 1980) 627 F.2d 189, 191-192

Fiduciary relationship, existence of

Lee v. State Bar (1970) 2 Cal.3d 927, 939 [88 Cal.Rptr. 361]
Johnstone v. State Bar (1966) 64 Cal.2d 153, 155-156 [49 Cal.Rptr. 97]

People v. Davis (1957) 48 Cal.2d 241, 256 [309 P.2d 1]

CAL 1987-93, CAL 1984-83

American Airlines v. Sheppard Mullin, Richter & Hampton (2002) 96 Cal.App.4th 1017 [117 Cal.Rptr.2d 685]

Former client

accept employment adverse to

-knowledge of former client's property and property rights involved in action

LA 31 (1925)

use of confidential communications of

-in subsequent representation of adverse party
 LA 27 (1925)

Franchise group

franchisee law firms of franchise group obtaining confidences
 LA 423 (1983)

Fraud

against client

Krieger v. State Bar (1954) 43 Cal.2d 604, 609 [275 P.2d 459]

upon client

Choate v. State Bar (1953) 41 Cal.2d 399

Hinds v. State Bar (1941) 19 Cal.2d 87, 92-93

Fugitive

harboring a fugitive

In the Matter of DeMassa (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 737

LA(l) 1931-2

Historical background

Rigolfi v. Superior Court (1963) 215 Cal.App.2d 497, 500-501 [30 Cal.Rptr. 317]

Identity of third party paying attorney's fee

United States v. Blackman (1995) 72 F.3d 1418

Ralls v. U.S. (9th Cir. 1995) 52 F.3d 223

U.S. v. Hirsch (9th Cir. 1986) 803 F.2d 493

In camera hearing on motion to withdraw

defense counsel reveals belief that defendant would commit perjury

People v. Brown (1988) 203 Cal.App.3d 1335

Inaccurate fiduciary accounting by client

SD 1983-10

Inadvertent disclosure

Samuels v. Mitchell (1994) 155 F.R.D. 195

KL Group v. Case, Kay & Lynch (9th Cir. 1987) 829 F.2d 909

State Compensation Insurance Fund v. WPS, Inc. (1999) 70 Cal.App.4th 644 [82 Cal.Rptr.2d 799]

Aerojet-General Corp. v. Transport Indemnity Insurance (1993) 18 Cal.App.4th 996 [22 Cal.Rptr.2d 862]

SD 1987-3

electronic communication technologies, utilization of

OR 97-002

if involuntary disclosure, privilege will be preserved if the holder has made efforts 'reasonably designed' to protect the privilege

Gomez v. Vernon (9th Cir. Idaho 2001) 255 F.3d

1118 [50 Fed. R. Serv.3d (Callaghan) 436]

Incompetent client

attorney initiated conservatorship proceedings, absent client consent

CAL 1989-112, LA 450 (1988), OR 95-002, SD 1978-1, SF 1999-2

duty of confidentiality compared with duty to be truthful to the court

Bryan v. Bank of America (2001) 86 Cal.App.4th 185 [103 Cal.Rptr.2d 148]

Mediator may not report sanctionable conduct of parties to court

Foxgate Homeowners' Association, Inc., v. Bramalea California, Inc. (2001) 26 Cal.4th 1 [108 Cal.Rptr.2d 642]

Minor client in dependency matter

LA 504 (2000)

Mismanagement of funds

by client

-administrator

--report to court

LA 132 (1940)

--urge restitution

LA 132 (1940)

Misuse of client funds

Resner v. State Bar (1960) 53 Cal.2d 605, 612 [2 Cal.Rptr. 461, 349 P.2d 67]

Brawner v. State Bar (1957) 48 Cal.2d 814, 818-819 [313 P.2d 1]

Burns v. State Bar (1955) 45 Cal.2d 296, 302 [288 P.2d 514]

Misuse of client property

Lefner v. State Bar (1966) 64 Cal.2d 189, 193 [49 Cal.Rptr. 296, 410 P.2d 832]

Sunderlin v. State Bar (1949) 33 Cal.2d 785 [205 P.2d 382]

Moral turpitude

In re Gillis (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 387

Name of client [See Confidences of the client, client name.]

Obtained in unrelated matter

LA(l) 1963-1

Outside services, use of by attorney

may involve disclosure of client confidences

CAL 1971-25

Partnership

Hecht v. Superior Court (1987) 192 Cal.App.3d 560 [237 Cal.Rptr. 528]

Wortham & Van Liew et al. v. Superior Court (1987) 188 Cal.App.3d 927 [233 Cal.Rptr. 725]

CONFIDENCES OF THE CLIENT

Perjury

by client

Nix v. Whiteside (1986) 475 U.S. 157 [106 S.Ct. 988]
People v. Guzman (1988) 45 Cal.3d 915 [248 Cal.Rptr. 467]

People v. Johnson (1998) 62 Cal.App.4th 608 [72 Cal.Rptr.2d 805]
 CAL 1983-74, LA 305 (1968)

disclosure of secret by attorney

Nix v. Whiteside (1986) 475 U.S. 157 [106 S.Ct. 988]
People v. Guzman (1988) 45 Cal.3d 915 [248 Cal.Rptr. 467]

People v. Johnson (1998) 62 Cal.App.4th 608 [72 Cal.Rptr.2d 805]
 CAL 1983-74, LA 305 (1968)

narrative form of testimony is best choice when attorney fears client will commit perjury

People v. Guzman (1988) 45 Cal.3d 915 [248 Cal.Rptr. 467]

People v. Johnson (1998) 62 Cal.App.4th 608 [72 Cal.Rptr.2d 805]

withdrawal

Nix v. Whiteside (1986) 475 U.S. 157 [106 S.Ct.] 988
People v. Johnson (1998) 62 Cal.App.4th 608 [72 Cal.Rptr.2d 805]
 CAL 1983-74, LA 305 (1968)

-discretion of the court in granting motion

People v. Brown (1988) 203 Cal.App.3d 1335

Possession of, presumed if substantial relationship of the matters

Johnson v. Superior Court (1984) 159 Cal.App.3d 573, 578 [205 Cal.Rptr. 605]
 rebuttable presumption
County of Los Angeles v. United States District Court (Forsyth) (9th Cir. 2000) 223 F.3d 990

Possibility of breach, basis for disqualification

Trone v. Smith (9th Cir. 1980) 621 F.2d 994, 999

Prison officials may only open mail – not read it

People v. Poe (1983) 145 Cal.App.3d 574

Prisoner mail to foreign attorney

In re Gonzales (1989) 212 Cal.App.3d 459 [260 Cal.Rptr. 506]

Privilege

Evidence Code sections 950, et seq.

Gomez v. Vernon (9th Cir. (Idaho) 2001) 255 F.3d 1118 [50 Fed. R. Serv.3d (Callaghan) 436]

People v. Superior Court (Laff) (2001) 25 Cal.4th 703 [107 Cal.Rptr.2d 323]

State Compensation Insurance Fund v. Superior Court (People) (2001) 91 Cal.App.4th 1080, 92 Cal.App.4th 1016A [111 Cal.Rptr.2d 284, 66 Cal. Comp. Cases 1061]

Green & Shinee v. Superior Court (2001) 88 Cal.App.4th 532 [105 Cal.Rptr.2d 886]

Wells Fargo Bank v. Superior Court (Boltwood) (2000) 22 Cal.4th 201 [901 Cal.Rptr.2d 716]

Smith v. Laguna Sur Villas Community Association (2000) 79 Cal.App.4th 639 [94 Cal.Rptr.2d 321]

State Compensation Insurance Fund v. WPS, Inc. (1999) 70 Cal.App.4th 644 [82 Cal.Rptr.2d 799]

Kaiser Foundation Hospitals v. Superior Court (1998) 66 Cal.App.4th 1217 [78 Cal.Rptr.2d 543]

Moeller v. Superior Court (1997) 16 Cal.4th 1124 [69 Cal.Rptr.2d 317]

Wellpoint Health Networks, Inc. v. Superior Court (1997) 59 Cal.App.4th 110 [68 Cal.Rptr.2d 844]

PSC Geothermal Services Co. v. Superior Court (1994) 25 Cal.App.4th 1697 [31 Cal.Rptr. 213]

Grand Jury v. Superior Court (1989) 211 Cal.App.3d 740 [259 Cal.Rptr. 404]

Welfare Rights Organization v. Crisan (1983) 33 Cal.3d 766 [190 Cal.Rptr. 919, 661 P.2d 1073]

*Olson v. Superior Court (1984) 157 Cal.App.3d 780, 793 [204 Cal.Rptr. 234]

attorney

-authority to assert

In re Boileau (9th Cir. 1984) 736 F.2d 503, 506

-good faith requirement

Olson v. Superior Court (1984) 157 Cal.App.3d 780, 796

-required to claim privilege

Evidence Code section 955

attorney-client and work product privileges are not limited by the prosecution seeking to discover documents through a search warrant

People v. Superior Court (Laff) (2001) 25 Cal.4th 703 [107 Cal.Rptr.2d 323]

attorney-client privilege applies even to disclosures to a court

Titmas v. Superior Court of Orange County (2001) 87 Cal.App.4th 738 [104 Cal.Rptr.2d 803]

bankruptcy proceedings

attorney cannot use confidences of former client to challenge client's discharge of fees owed

In re Rindlisbacher (9th Cir. BAP 1998) 225 B.R. 180 [33 Bankr.Ct.Dec. 258, 2 Cal.Bankr.Ct.Rep. 43]

client

-deceased client

LA 491 (1997), LA 414 (1983)

--federal investigation

Swidler & Berlin v. United States (1998) 524 U.S. 399 [118 S.Ct. 2081]

--intention of affecting property interest

Evidence Code section 961

-defined

Wells Fargo Bank v. Superior Court (Boltwood) (2000) 22 Cal.4th 201 [901 Cal.Rptr.2d 716]

Smith v. Laguna Sur Villas Community Association (2000) 79 Cal.App.4th 639 [94 Cal.Rptr.2d 321]

Evidence Code sections 951, 952, and 954

Moeller v. Superior Court (1997) 16 Cal.4th 317 [69 Cal.Rptr.2d 317]

State Farm Fire and Casualty Co. v. Superior Court (1997) 54 Cal.App.4th 625 [62 Cal.Rptr.2d 834]

People v. Gionis (1995) 9 Cal.4th 1196 [40 Cal.Rptr.2d 456]

Schaff v. Superior Court (1983) 146 Cal.App.3d 921

-fiduciaries: receivers, trustees, executors entitled to privilege

Shannon v. Superior Court (1990) 217 Cal.App.3d 986 [266 Cal.Rptr. 242]

-file

Lasky, Haas, Cohler & Munter v. Superior Court (1985) 172 Cal.App.3d 264 [218 Cal.Rptr. 205]

-identity

United States v. Blackman (9th Cir. 1995) 72 F.3d 1418

In the Matter of the Grand Jury Subpoena Issue to Chesnoff (9th Cir. 1995) 62 F.3d 1144

Ralls v. U.S. (9th Cir. 1995) 52 F.3d 223

Alexiou v. United States (9th Cir. 1994) 39 F.3d 973

In re Grand Jury Subpoena (Horn) (9th Cir. 1992) 976 F.2d 1314, 1317

Dole v. Milonas (9th Cir. 1989) 889 F.2d 885

Baird v. Koerner (9th Cir. 1960) 279 F.2d, 623, 629

-joint clients

--community of interest doctrine

In re the Regents of the University of California

(1996 Ind.) 101 F.3d 1386

--exception to privilege

Evidence Code section 962

Zador Corp. v. Kwan (1995) 31 Cal.App.4th 1285 [37 Cal. Rptr.2d 754]

Aetna Casualty & Surety Co. v. Superior Court (1984) 153 Cal.App.3d 467, 473 [200 Cal.Rptr. 471]

--under joint defense agreement

United States v. Henke (9th Cir. 2000) 222 F.3d 633

communications which are privileged

Ralls v. U.S. (9th Cir. 1995) 52 F.3d 223

Alexiou v. United States (9th Cir. 1994) 39 F.3d 973

CONFIDENCES OF THE CLIENT

- In re Grand Jury Subpoena Issued to Gerson S. Horn (9th Cir. 1992) 976 F.2d 1314
- Chevron Corporation v. Pennzoil Company (9th Cir. 1992) 974 F.2d 1156
- Dole v. Milonas (9th Cir. 1989) 889 F.2d 885
- Admiral Insurance v. U.S. Dist. Court for Dist. of Arizona (9th Cir. 1989) 881 F.2d 1486
- Tornay v. U.S. (9th Cir. 1988) 840 F.2d 1424
- Baird v. Koerner (9th Cir. 1960) 279 F.2d 623, 629
- Wells Fargo Bank v. Superior Court (Boltwood) (2000) 22 Cal.4th 201 [901 Cal.Rptr.2d 716]
- Moeller v. Superior Court (1997) 16 Cal.4th 1124 [69 Cal.Rptr.2d 317]
- Chronicle Pub. Co. v. Superior Court (1960) 54 Cal.2d 548, 566 [7 Cal.Rptr. 104, 354 P.2d 637]
- Holm v. Superior Court (1954) 42 Cal.2d 500, 506 [267 P.2d 1025]
- City & County of San Francisco v. Superior Court (1951) 37 Cal.2d 227, 234-235 [231 P.2d 26]
- McKnew v. Superior Court (1943) 23 Cal.2d 58 [142 P.2d 1]
- STI Outdoor v. Superior Court (Eller Media Co.) (2001) 91 Cal.App.4th 334 [109 Cal.Rptr.2d 865]
- Titmas v. Superior Court of Orange County (2001) 87 Cal.App.4th 738 [104 Cal.Rptr.2d 803]
- Smith v. Laguna Sur Villas Community Association (2000) 79 Cal.App.4th 639 [94 Cal.Rptr.2d 321]
- Wellpoint Health Networks, Inc. v. Superior Court (1997) 59 Cal.App.4th 110 [68 Cal.Rptr.2d 844]
- People v. Tamborrino (1989) 215 Cal.App.3d 575
- Nowell v. Superior Court (1963) 223 Cal.App.2d 652, 655 [36 Cal.Rptr. 21]
- Rigolfi v. Superior Court (1963) 215 Cal.App.2d 497 [30 Cal.Rptr. 317]
- People v. Morgan (1956) 140 Cal.App.2d 796, 803 [296 P.2d 75]
- People v. Kor (1954) 129 Cal.App.2d 436, 442-443 [277 P.2d 94]
- In the Matter of Johnson (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 179
- exceptions
- Arden v. State Bar (1959) 52 Cal.2d 310, 320
- Nowell v. Superior Court (1963) 223 Cal.App.2d 652, 657-658 [36 Cal.Rptr. 21]
- billing statements
- Clarke v. American National Commerce Bank (9th Cir. 1992) 974 F.2d 127
- business checks payable to a client or others on the client's behalf
- Gordon, III v. Superior Court (1997) 55 Cal.App.4th 1546 [65 Cal.Rptr.2d 53]
- no unavailability exception – privilege protects pre-trial statements although unavailable to opposing counsel through discovery
- Admiral Insurance v. United States (9th Cir. 1989) 881 F.2d 1486
- identity of current clients not disclosed to third parties and client specific information regarding funds held by the attorney in a client trust account need not be disclosed to creditor by attorney debtor
- Hooser v. Superior Court (2001) 84 Cal.App.4th 997 [101 Cal.Rptr.2d 341]
- condominium associations are holders of attorney-client privilege and are not required to disclose privileged information to individual homeowners
- Smith v. Laguna Sur Villas Community Association (2000) 79 Cal.App.4th 639 [94 Cal.Rptr.2d 321]
- deceased client
- Evidence Code section 957
- Fletcher v. Alameda County Superior Court (1996) 44 Cal.App.4th 773 [52 Cal.Rptr.2d 65]
- People v. Pena (1984) 151 Cal.App.3d 462, 480-481 [198 Cal.Rptr. 819]
- Paley v. Superior Court (1955) 137 Cal.App.2d 450
- LA 300
- destruction of file
- LA 491 (1997)
- definitions
- client
- Evidence Code section 951
- confidential communication between lawyer and client
- Evidence Code section 952
- Nalian Truck Lines, Inc. v. Nakano Warehouse and Transportation Corp. (1992) 6 Cal.App.4th 1256
- lawyer
- Evidence Code section 950
- deputy district attorney cannot assert attorney-client privilege as to documents prepared in official capacity when the attorney is subject of criminal investigation
- People ex rel. Lockyer v. Superior Court (Pfingst) (2000) 83 Cal.App.4th 387 [99 Cal.Rptr.2d 646]
- derivative action by shareholders does not entitle shareholders to attorney-client privilege information
- Titmas v. Superior Court of Orange County (2001) 87 Cal.App.4th 738 [104 Cal.Rptr.2d 803]
- disclosure by client to attorney
- of perjury
- Nix v. Whiteside (1986) 475 U.S. 157 [106 S.Ct. 988]
- People v. Guzman (1988) 45 Cal.3d 915 [248 Cal.Rptr. 467]
- People v. Johnson (1998) 62 Cal.App.4th 608 [72 Cal.Rptr.2d 805]
- CAL 1983-74, LA 305 (1968)
- of threats to commit criminal act likely to result in death or substantial bodily harm
- U.S. v. Alexander (9th Cir. (Montana) 2002) 287 F.3d 811
- People v. Dang (2001) 93 Cal.App.4th 1293 [113 Cal.Rptr.2d 763]
- disclosure of client secret
- CAL 1981-58, p. 2
- LA 498 (1999), LA 452 (1988), LA 400 (1982), LA 305 (1968)
- by attorney absent client's waiver does not destroy privilege
- KL Group v. Case, Kay & Lynch (9th Cir. 1987) 829 F.2d 909
- child abuse
- LA 504 (2000)
- exception for crime or fraud
- U.S. v. Chen (9th Cir. 1996) 99 F.3d 1495
- LA 436 (1985), LA 414 (1983), LA 329 (1972)
- former in-house counsel may disclose employer-client confidences to her own attorneys to the extent relevant to her wrongful termination action
- Fox Searchlight Pictures, Inc., v. Paladino (2001) 89 Cal.App.4th 294 [106 Cal.Rptr.2d 906]
- privilege
- holder of privilege
- Evidence Code section 953
- to prevent another from disclosing confidential communication between lawyer and client
- Evidence Code section 954
- attorney plaintiff may not prosecute a lawsuit if client confidences would be disclosed unless statute removes the protection of the attorney-client privilege
- General Dynamics Corp. v. Superior Court (1994) 7 Cal.4th 1164, 1190 [32 Cal.Rptr.2d 1]
- Solin v. O'Melveny & Myers, LLP (2001) 89 Cal.App.4th 451 [107 Cal.Rptr.2d 456]
- to refuse to disclose confidential communication between lawyer and client
- Evidence Code section 954
- withdrawal
- LA 305 (1968)
- disclosure to court
- Titmas v. Superior Court of Orange County (2001) 87 Cal.App.4th 738 [104 Cal.Rptr.2d 803]
- duty to assert, lawyer's
- when called as witness by adverse party

CONFIDENCES OF THE CLIENT

- LA 20 (1923)
- exceptions
 - State Compensation Insurance Fund v. Superior Court (People) (2001) 91 Cal.App.4th 1080, 92 Cal.App.4th 1016A [111 Cal.Rptr.2d 284, 66 Cal. Comp. Cases 1061]
 - billing statements
 - United States v. Amlani (9th Cir. 1999) 169 F.3d 1189
 - Clarke v. American Commerce National Bank (9th Cir. 1992) 974 F.2d 127
 - CAL 2002-159
 - breach of duty arising out of lawyer-client relationship
 - Evidence Code section 958
 - In re Rindlisbacher (9th Cir. BAP 1998) 225 B.R. 180 [33 Bankr.Ct.Dec. 258, 2 Cal.Bankr.Ct.Rep. 43]
 - Wells Fargo Bank v. Superior Court (Boltwood) (2000) 22 Cal.4th 201 [901 Cal.Rptr.2d 716]
 - Fox Searchlight Pictures, Inc., v. Paladino (2001) 89 Cal.App.4th 294 [106 Cal.Rptr.2d 906]
 - Solin v. O'Melveny & Myers, LLP (2001) 89 Cal.App.4th 451 [107 Cal.Rptr.2d 456]
 - LA 498 (1999), LA 452, LA 396 (1982)
 - corporation holds privilege and shareholder's derivative action against corporation's outside counsel cannot proceed because attorney-client privilege precludes counsel from mounting meaningful defense
 - McDermott, Will & Emory v. Superior Court (James) (2000) 83 Cal.App.4th 378 [99 Cal.Rptr.2d 622]
 - business checks payable to a client or others on the client's behalf
 - Gordon, III v. Superior Court (1997) 55 Cal.App.4th 1546 [65 Cal.Rptr.2d 53]
 - consultation with an independent attorney regarding the client's case may be permitted
 - SD 1996-1
 - defendant's assertion that government's disparagement of defense lawyer resulted in prejudicial substitution of inadequate counsel may waive attorney-client privilege for communications relating to substitution
 - United States v. Amlani (9th Cir. 1999) 169 F.3d 1189
 - does not apply to work product
 - Wells Fargo Bank v. Superior Court (Boltwood) (2000) 22 Cal.4th 201 [901 Cal.Rptr.2d 716]
 - BP Alaska Exploration, Inc. v. Superior Court (1988) 199 Cal.App.3d 1240 [245 Cal.Rptr. 682]
 - deputy district attorney cannot assert attorney-client privilege as to documents prepared in official capacity when the attorney is subject of criminal investigation
 - People ex rel. Lockyer v. Superior Court (Pfungst) (2000) 83 Cal.App.4th 387 [99 Cal.Rptr.2d 646]
 - fraud or crime
 - Evidence Code section 956
 - Evidence Code section 956.5
 - U.S. v. Alexander (9th Cir. (Montana) 2002) 287 F.3d 811
 - U.S. v. Bauer (9th Cir. 1997) 132 F.3d 504
 - U.S. v. Chen (9th Cir. 1996) 99 F.3d 1495
 - People v. Gionis (1995) 9 Cal.4th 1196 [40 Cal.Rptr.2d 456]
 - Starsight Telecast v. Gemstar (1994) 158 F.R.D. 650
 - In re Grand Jury Subpoena 92-1 (9th Cir. 1994) 31 F.3d 826
 - Wells Fargo Bank v. Superior Court (Boltwood) (2000) 22 Cal.4th 201 [901 Cal.Rptr.2d 716]
 - General Dynamics Corp. v. Superior Court (1994) 7 Cal.4th 1164 [32 Cal.Rptr.2d 1]
 - People v. Dang (2001) 93 Cal.App.4th 1293 [113 Cal.Rptr.2d 763]
 - State Compensation Insurance Fund v. Superior Court (People) (2001) 91 Cal.App.4th 1080, 92 Cal.App.4th 1016A [111 Cal.Rptr.2d 284, 66 Cal. Comp. Cases 1061]
 - State Farm Fire and Casualty Co. v. Superior Court (1997) 54 Cal.App.4th 625 [62 Cal.Rptr.2d 834]
 - Glade v. Superior Court (1978) 76 Cal.App.3d 738 [143 Cal.Rptr. 119]
 - CAL 1986-89, LA 436 (1985), LA 414 (1983)
 - SD 1990-1
 - child abuse
 - LA 504 (2000)
 - defendant's former attorney allowed to testify as to defendant's threats against witnesses
 - U.S. v. Alexander (9th Cir. (Montana) 2002) 287 F.3d 811
 - People v. Dang (2001) 93 Cal.App.4th 1293 [113 Cal.Rptr.2d 763]
 - does not apply to work product
 - State Farm Fire and Casualty Co. v. Superior Court (1997) 54 Cal.App.4th 625 [62 Cal.Rptr.2d 834]
 - BP Alaska Exploration, Inc. v. Superior Court (1988) 199 Cal.App.3d 1240 [245 Cal.Rptr. 682]
 - federal court
 - Church of Scientology v. United States (1992) 504 U.S. 940 [112 S.Ct. 2273]
 - In re Grand Jury Subpoena Issued to Gerson S. Horn 9th Cir. 1992) 976 F.2d 1314
 - in camera review of attorney-client communications permitted if reasonable belief communication is within crime-fraud exception
 - In re Grand Jury Proceedings (9th Cir. 1996) 87 F.3d 377
 - In re Grand Jury Subpoena 92-1 (9th Cir. 1994) 31 F.3d 826
 - U.S. v. Zolin (1989) 491 U.S. 554
 - In re Grand Jury Investigation (9th Cir. 1992) 974 F.2d 1068
 - in camera review warranted after seizure of correspondence from consultants to attorneys
 - PSC Geothermal Services Co. v. Superior Court (1994) 25 Cal.App.4th 1697 [31 Cal.Rptr.2d 213]
 - grand jury proceedings
 - privilege may not preclude attorney from testifying where client is trustee
 - In re Grand Jury Proceedings (9th Cir. 1998) 162 F.3d 554
 - intention of deceased client concerning writing affecting property interest
 - Evidence Code section 960
 - joint clients
 - Evidence Code section 962
 - Sky Valley Limited Partnership & Tang Industries v. ATX Sky Valley, Ltd. (1993) 150 F.R.D. 648
 - Zador Corp. v. Kwan (1995) 31 Cal.App.4th 1285 [37 Cal.Rptr.2d 754]
 - Hecht v. Superior Court (1987) 192 Cal.App.3d 560 [237 Cal.Rptr. 528]
 - Wortham & Van Liew et al. v. Superior Court of San Diego County (1986) 188 Cal.App.3d 927
 - Miller, Morton, Caillat & Nevis v. Superior Court (1985) 169 Cal.App.3d 552, 559-560 [215 Cal.Rptr. 365]
 - LA 471 (1992)
 - lawyer as attesting witness
 - Evidence Code section 959
 - multiple clients
 - Hoiles v. Superior Court (1984) 157 Cal.App.3d 1192, 1199, fn.4
 - partnership
 - Sky Valley Limited Partnership & Tang Industries v. ATX Sky Valley, Ltd. (1993) 150 F.R.D. 648
 - Hecht v. Superior Court (1987) 192 Cal.App.3d 560
 - Wortham & Van Liew et al. v. Superior Court of San Diego County (1986) 188 Cal.App.3d 927
 - parties claiming through deceased client
 - Evidence Code section 957
 - statements made in judicial proceeding
 - evidentiary use

CONFIDENCES OF THE CLIENT

- Oren Royal Oaks Venture v. Greenberg, Bernhard, Weiss & Karma, Inc. (1986) 42 Cal.3d 1157
- report prepared by police officers in the performance of their duties are public record and are not privileged
- Green & Shinee v. Superior Court (2001) 88 Cal.App.4th 532 [105 Cal.Rptr.2d 886]
- validity of writing affecting property interest
- Evidence Code section 961
- where attorney reasonably believes disclosure necessary to prevent criminal act likely to result in death or substantial bodily harm
- People v. Dang (2001) 93 Cal.App.4th 1293 [113 Cal.Rptr.2d 763]
- expert witness
- professional opinion regarding a material matter in dispute terminates the work product privilege
- County of Los Angeles v. Superior Court (1990) 222 Cal.App.3d 647 [217 Cal.Rptr. 698]
- grand jury proceedings
- grand jury cannot compel disclosure of information discovered by investigator for pre-indictment suspect's attorney
- Grand Jury v. Superior Court (1989) 211 Cal.App.3d 740 [259 Cal.Rptr. 404]
- privilege may not preclude attorney from testifying where client is trustee
- In re Grand Jury Proceedings (9th Cir. 1998) 162 F.3d 554
- holder of privilege
- Evidence Code section 953
- district attorney is the privilege holder with regard to materials seized from office occupied by a deputy district attorney
- People ex rel. Lockyer v. Superior Court (Pfingst) (2000) 83 Cal.App.4th 387 [99 Cal.Rptr.2d 646]
- payment of fees does not determine ownership of the privilege
- Wells Fargo Bank v. Superior Court (Boltwood) (2000) 22 Cal.4th 201 [901 Cal.Rptr.2d 716]
- Smith v. Laguna Sur Villas Community Association (2000) 79 Cal.App.4th 639 [94 Cal.Rptr.2d 321]
- personal representative as
- Evidence Code section 953(c)
- shareholders are not the holder of the privilege of a corporation and cannot effect a waiver by filing a derivative action for legal malpractice against corporation's outside counsel
- McDermott, Will & Emory v. Superior Court (James) (2000) 83 Cal.App.4th 378 [99 Cal.Rptr.2d 622]
- inadvertent disclosure
- Gomez v. Vernon (9th Cir. (Idaho) 2001) 255 F.3d 1118 [50 Fed. R. Serv.3d (Callaghan) 436]
- KL Group v. Case, Kay & Lynch (9th Cir. 1987) 829 F.2d 909
- State Compensation Insurance Fund v. WPS, Inc. (1999) 70 Cal.App.4th 644 [82 Cal.Rptr.2d 799]
- Aerojet-General Corp. v. Transport Indemnity Insurance (1993) 18 Cal.App.4th 996 [22 Cal.Rptr.2d 862]
- SD 1987-3
- insurance cases
- insurer's attorney has duty to include insured's independent counsel in settlement negotiations and to fully exchange information
- Novak v. Low, Ball & Lynch (1999) 77 Cal.App.4th 278 [91 Cal.Rptr.2d 453]
- seizure of documents from insurer's legal files should have been sealed and examined in camera to determine applicability of privilege
- State Compensation Insurance Fund v. Superior Court (People) (2001) 91 Cal.App.4th 1080, 92 Cal.App.4th 1016A [111 Cal.Rptr.2d 284, 66 Cal. Comp. Cases 1061]
- settlement communications between insurer and insured's attorney not privileged in subsequent action for bad faith failure to settle
- Glacier General Assurance Co. v. Superior Court (1979) 95 Cal.App.3d 836 [157 Cal.Rptr. 435]
- standing to assert privilege under Labor Code section 3762
- State Compensation Insurance Fund v. Superior Court (People) (2001) 91 Cal.App.4th 1080, 92 Cal.App.4th 1016A [111 Cal.Rptr.2d 284, 66 Cal. Comp. Cases 1061]
- statements made by insured defendant to insurer before commencement of litigation protected by attorney-client privilege (insurer = agent of attorney; "dominant purpose" test)
- Soltani-Rastegar v. Superior Court (1989) 208 Cal.App.3d 424 [256 Cal.Rptr. 255]
- law office property seized by law enforcement officers protected until trial court reviews all sealed documents
- Geilim v. Superior Court (1991) 234 Cal.App.3d 166
- attorney-client and work product privileges are not limited by the prosecution seeking to discover documents through a search warrant
- People v. Superior Court (Laff) (2001) 25 Cal.4th 703 [107 Cal.Rptr.2d 323]
- lawyer
- as attesting witness
- Evidence Code section 959
- breach of duty arising out of lawyer-client relationship
- Evidence Code section 958
- defined
- Evidence Code section 950
- required to claim privilege
- Evidence Code section 955
- lawyer-client
- Evidence Code sections 950-962
- only client can release attorney
- Commercial Standard Title Co. v. Superior Court (1979) 92 Cal.App.3d 934, 945
- letter by client
- disclosing violation of probation by leaving jurisdiction
- LA 82 (1935)
- merely turning over documents prepared independently by party to attorney does not make them privileged
- Green & Shinee v. Superior Court (2001) 88 Cal.App.4th 532 [105 Cal.Rptr.2d 886]
- mismanagement of estate funds
- by client
- report to court
- LA 132 (1940)
- restitution
- LA 132 (1940)
- non-attorney in propria persona litigant may assert statutory work product privilege
- Dowden v. Superior Court (1999) 73 Cal.App.4th 126 [86 Cal.Rptr.2d 180]
- only client can release attorney
- LA 456, LA 389 (1981)
- parties claiming through a deceased client
- Evidence Code section 957
- policy and purposes
- Shannon v. Superior Court (1990) 217 Cal.App.3d 986 [266 Cal.Rptr. 242]
- In the Matter of Johnson (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 179
- preservation of attorney-client privilege is a critical pretrial matter
- Titmas v. Superior Court of Orange County (2001) 87 Cal.App.4th 738 [104 Cal.Rptr.2d 803]
- presumption
- Johnson v. Superior Court (1984) 159 Cal.App.3d 573 [205 Cal.Rptr. 605]
- Mitchell v. Superior Court (1984) 37 Cal.3d 591 [208 Cal.Rptr. 886]
- In the Matter of Johnson (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 179
- presumption of shared confidences in a law firm
- County of Los Angeles v. United States District Court (Forsyth) (9th Cir. 2000) 223 F.3d 990

CONFIDENCES OF THE CLIENT

property interest

- intention of deceased client affecting
Evidence Code section 961
- validity of writing affecting
Evidence Code section 961

protection from discovery

- Titmas v. Superior Court of Orange County (2001) 87 Cal.App.4th 738 [104 Cal.Rptr.2d 803]
- Kaiser Foundation Hospitals v. Superior Court (1998) 66 Cal.App.4th 1217 [78 Cal.Rptr.2d 543]
- Wellpoint Health Networks, Inc. v. Superior Court (1997) 59 Cal.App.4th 110 [68 Cal.Rptr.2d 844]
- Mitchell v. Superior Court (1984) 37 Cal.3d 591 [208 Cal.Rptr. 886]

- attorney plaintiff may not prosecute a lawsuit if in doing so client confidences would be disclosed unless statute removes the protection of the attorney-client privilege

- General Dynamics Corp. v. Superior Court (1994) 7 Cal.4th 1164, 1190 [32 Cal.Rptr.2d 1]
- Solin v. O'Melveny & Myers, LLP (2001) 89 Cal.App.4th 451 [107 Cal.Rptr.2d 456]

- communications related to issues raised in litigation

- Transamerica Title Ins. Co. v. Superior Court (1986) 188 Cal.App.3d 1047, 1052-1053

- communications with expert witness for opposing party
County of Los Angeles v. Superior Court (1990) 222 Cal.App.3d 647 [217 Cal.Rptr. 698]

- not limited to litigation communications

- STI Outdoor v. Superior Court (Eller Media Co.) (2001) 91 Cal.App.4th 334 [109 Cal.Rptr.2d 865]

protects client communications

- Upjohn v. U.S. (1981) 449 US 383 [101 S.Ct. 677]
- In the Matter of Johnson (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 179

public record

- city attorney's written opinion to council on pending matter subject to attorney-client privilege

- Roberts v. City of Palmdale (1993) 5 Cal.4th 363 [20 Cal.Rptr.2d 330]

- mere fact that information may appear in public domain does not affect the privileged status of the information

- In re Complex Asbestos Litigation (1991) 232 Cal.App.3d 572 [283 Cal.Rptr. 732]
- In the Matter of Johnson (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 179

- report prepared by police officers in the performance of their duties are public record and are not privileged

- Green & Shinee v. Superior Court (2001) 88 Cal.App.4th 532 [105 Cal.Rptr.2d 886]
- LA 386

- real parties in interest may not compel disclosure when receiver asserts privilege

- Shannon v. Superior Court (1990) 217 Cal.App.3d 986 [266 Cal.Rptr. 242]

right of corporation to claim

- Titmas v. Superior Court of Orange County (2001) 87 Cal.App.4th 738 [104 Cal.Rptr.2d 803]
- Alpha Beta Co. v. Superior Court (1984) 157 Cal.App.3d 818

scope

- Alpha Beta Co. v. Superior Court (1984) 157 Cal.App.3d 818, 824, 826-829, 830-831
- In the Matter of Johnson (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 179

shareholders may not pierce privilege

- Titmas v. Superior Court of Orange County (2001) 87 Cal.App.4th 738 [104 Cal.Rptr.2d 803]
- McDermott, Will & Emory v. Superior Court (James) (2000) 83 Cal.App.4th 378 [99 Cal.Rptr.2d 622]
- Goldstein v. Lees (1975) 46 Cal.App.3d 614 [120 Cal.Rptr. 253]

- third party paying fee, identity of

- Ralls v. U.S. (9th Cir. 1995) 52 F.3d 223
- U.S. v. Hirsch (9th Cir. 1986) 803 F.2d 493

trust's attorney need not disclose to beneficiaries confidential communication with trustee

- Wells Fargo Bank v. Superior Court (Boltwood) (2000) 22 Cal.4th 201 [901 Cal.Rptr.2d 716]

waiver

- In re Rindlisbacher (9th Cir. BAP 1998) 225 B.R. 180 [33 Bankr.Ct.Dec. 258, 2 Cal.Bankr.Ct.Rep. 43]

- Electro Scientific Industries, Inc. v. General Scanning, Inc. (1997) 175 F.R.D. 539

- Tennenbaum v. Deloitte & Touche (9th Cir. 1996) 77 F.3d 337

- Scottsdale Insurance Company v. Superior Court (1997) 59 Cal.App.4th 263 [69 Cal.Rptr.2d 112]

- Korea Data Systems Co. Ltd. v. Superior Court (1997) 51 Cal.App.4th 1513 [59 Cal.Rptr.2d 925]

- Zador Corp. v. Kwan (1995) 31 Cal.App.4th 1285 [37 Cal.Rptr.2d 754]

- Transamerica Title Ins. Co. v. Superior Court (1986) 188 Cal.App.3d 1047

- Motown Record Corp. v. Superior Court (1984) 155 Cal.App.3d 482, 492 [202 Cal.Rptr. 227]

- Rigolfi v. Superior Court (1963) 215 Cal.App.2d 497, 502 [30 Cal.Rptr. 317]

- CAL 1989-115

- agreement requires disclosure

- Tennenbaum v. Deloitte & Touche (9th Cir. 1996) 77 F.3d 337

- arbitration case

- privilege waived with disclosure of arbitration documents to accountants for non-legal purposes
Samuels v. Mitchell (1994) 155 F.R.D. 195

- by client

- Beck v. Wecht (2002) 28 Cal.4th 289 [121 Cal.Rptr.2d 384]

- Musser v. Provencher (2002) 28 Cal.4th 274 [121 Cal.Rptr.2d 373]

- Mitchell v. Superior Court (1984) 37 Cal.3d 591 [208 Cal.Rptr. 886]

- court must hold hearing before ruling on waiver of attorney-client privilege

- Titmas v. Superior Court of Orange County (2001) 87 Cal.App.4th 738 [104 Cal.Rptr.2d 803]

- forced waiver not an authorized sanction for failure to file a privilege log

- Korea Data Systems Co. Ltd. v. Superior Court (1997) 51 Cal.App.4th 1513 [59 Cal.Rptr.2d 925]

- found when attorney did not specifically reference objections to individual items in discovery request for production of documents

- Scottsdale Insurance Company v. Superior Court (1997) 59 Cal.App.4th 263 [69 Cal.Rptr.2d 112]

- found when claiming ineffective assistance of counsel
Durdines v. Superior Court (1999) 76 Cal.App.4th 247 [90 Cal.Rptr.2d 217]

- found when party claiming privilege uses non-disclosure as both a sword and a shield

- United States v. Amlani (9th Cir. 1999) 169 F.3d 1189

- Chevron Corporation v. Pennzoil Company (9th Cir. 1992) 974 F.2d 1156

- inadvertent, accidental disclosure by attorney not waiver by client

- State Compensation Insurance Fund v. WPS, Inc. (1999) 70 Cal.App.4th 644 [82 Cal.Rptr.2d 799]

- inadvertent disclosure absent client's waiver does not destroy privilege

- KL Group v. Case, Kay & Lynch (9th Cir. 1987) 829 F.2d 909

- insured employer of claimant may not waive attorney-client privilege that insurer is entitled to assert under Labor Code section 3762

- State Compensation Insurance Fund v. Superior Court (People) (2001) 91 Cal.App.4th 1080, 92 Cal.App.4th 1016A [111 Cal.Rptr.2d 284, 66 Cal. Comp. Cases 1061]

CONFIDENCES OF THE CLIENT

- IRS, voluntary disclosure by client
 - Griffith v. Davis (1995) 161 F.R.D. 689
- limited to habeas proceeding when court within its discretion, issues protective order when ineffective assistance of counsel issues are raised
 - Osband v. Woodford (9th Cir. 2002) 282 F.3d 1125
- limited waiver based on limited disclosure
 - Chevron Corporation v. Pennzoil Company (9th Cir. 1992) 974 F.2d 1156
- not found
 - Gomez v. Vernon (9th Cir. (Idaho) 2001) 255 F.3d 1118 [50 Fed. R. Serv.3d (Callaghan) 436]
 - Kaiser Foundation Hospitals v. Superior Court (1998) 66 Cal.App.4th 1217 [78 Cal.Rptr.2d 543]
- common interest doctrine applies to joint prosecution agreement for the sharing of experts reports
 - Armenta v. Superior Court (2002) 101 Cal.App.4th 525 [124 Cal.Rptr.2d 273]
- disclosure of documents reasonably necessary to further the interests of counsel, clients, and third parties who were bound by an offer and acceptance
 - STI Outdoor v. Superior Court (Eller Media Co.) (2001) 91 Cal.App.4th 334 [109 Cal.Rptr.2d 865]
- patent case
 - McCormick-Morgan, Inc. v. Teledyne Industries, Inc. (N.D. Cal. 1991) 765 F.Supp. 611
- trustee's reporting duties do not trump the attorney-client privilege and does not constitute a waiver
 - Wells Fargo Bank v. Superior Court (Boltwood) (2000) 22 Cal.4th 201 [901 Cal.Rptr.2d 716]
- voluntary disclosure of privileged materials to government agency in non-public investigation constitutes waiver
 - McMorgan & Co. v. First California Mortgage Co. (N.D. CA 1997) 931 F.Supp. 703
- voluntary disclosure partially waives attorney-client privilege for contested documents in patent case
 - Starsight Telecast v. Gemstar (1994) 158 F.R.D. 650
- who may claim
 - Alpha Beta Co. v. Superior Court (1984) 157 Cal.App.3d 818, 825
- witnesses
 - privilege does not extend to memorandum disclosing the existence of
 - Aerojet-General Corp. v. Transport Indemnity Insurance (1993) 18 Cal.App.4th 996 [22 Cal.Rptr.2d 862]
- work product including non-litigation work
 - State Compensation Insurance Fund v. Superior Court (People) (2001) 91 Cal.App.4th 1080, 92 Cal.App.4th 1016A [111 Cal.Rptr.2d 284, 66 Cal. Comp. Cases 1061]
 - absolute privilege not applicable when attorney merely acts as a business agent receiving or conveying messages
 - Rumac v. Bottomley (1983) 143 Cal.App.3d 810 [192 Cal.Rptr. 104]
 - attorney/client privilege distinguished from work product rule
 - Electro Scientific Industries v. General Scanning (1997) 175 F.R.D. 539
 - McMorgan & Co. v. First California Mortgage Co. (N.D. CA 1997) 931 F.Supp. 703
 - Admiral Insurance v. U.S. District Court for Dist. of Arizona (9th Cir. 1989) 881 F.2d 1486
 - Wellpoint Health Networks, Inc. v. Superior Court (1997) 59 Cal.App.4th 110 [68 Cal.Rptr.2d 844]
 - PSC Geothermal Services Co. v. Superior Court (1994) 25 Cal.App.4th 1697 [31 Cal.Rptr.2d 213]
 - common interest doctrine applies to joint prosecution agreement for the sharing of experts reports
 - Armenta v. Superior Court (2002) 101 Cal.App.4th 525 [124 Cal.Rptr.2d 273]
 - excluded from discovery
 - *Olson v. Superior Court (1984) 157 Cal.App.3d 780
 - limited to work done for client and communications with the client for that purpose
 - Aetna Casualty & Surety Co. v. Superior Court (1984) 153 Cal.App.3d 467, 476
- need not be revealed to enable the court to rule on privilege
 - *Olson v. Superior Court (1984) 157 Cal.App.3d 780, 793-794 [204 Cal.Rptr. 234]
- privilege does not extend to memorandum disclosing the existence of
 - Aerojet-General Corp. v. Transport Indemnity Insurance (1993) 18 Cal.App.4th 996 [22 Cal.Rptr.2d 862]
- report prepared by expert-consultant is protected by the attorney's work product privilege
 - County of Los Angeles v. Superior Court (1990) 222 Cal.App.3d 647 [217 Cal.Rptr. 698]
- Psychotherapist-patient privilege
 - Roe v. Superior Court (1991) 229 Cal.App.3d 832 [280 Cal.Rptr. 380]
- Public record information
 - In re Complex Asbestos Litigation (1991) 232 Cal.App.3d 572 [283 Cal.Rptr. 732]
 - In the Matter of Johnson (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 179
- report prepared by police officers in the performance of their duties are public record are not privileged
 - Green & Shinee v. Superior Court (2001) 88 Cal.App.4th 532 [105 Cal.Rptr.2d 886]
- LA 386
- Receivers entitled to attorney-client privilege when counsel is obtained to assist in the discharge of duties
 - Shannon v. Superior Court (1990) 217 Cal.App.3d 986 [266 Cal.Rptr. 242]
- Records mistakenly delivered to a party
 - SD 1987-3
- Related matter
 - imputed knowledge
 - Global Van Lines v. Superior Court (1983) 144 Cal.App.3d 483 [192 Cal.Rptr. 609]
 - rebuttable presumption of shared confidence in a law firm
 - County of Los Angeles v. United States District Court (Forsyth) (9th Cir. 2000) 223 F.3d 990
- Relationship of matter to
 - Chambers v. Superior Court (1981) 121 Cal.App.3d 893, 897 [175 Cal.Rptr. 575]
- imputed knowledge
 - rebuttable presumption of shared confidences in a law firm
 - County of Los Angeles v. United States District Court (Forsyth) (9th Cir. 2000) 223 F.3d 990
- Representing client's former spouse
 - DeLong v. Miller (1955) 133 Cal.App.2d 175
- Research project by non-attorney seeks summarized client data
 - LA 378 (1978)
- Revelation of client confidences required by court order
 - challenge to error
 - Roberts v. Superior Court (1973) 9 Cal.3d 330, 335-336 [107 Cal.Rptr. 309, 508 P.2d 309]
- Right to chosen counsel
 - Yorn v. Superior Court (1979) 90 Cal.App.3d 669, 674 [153 Cal.Rptr. 295]
- automatic vicarious disqualification of a firm would reduce the right
 - County of Los Angeles v. United States District Court (Forsyth) (9th Cir. 2000) 223 F.3d 990
- disqualification denied where former legal secretary of defendant became a client, not an employee of attorney for plaintiff
 - Neal v. Health Net, Inc. (2002) 100 Cal.App.4th 831 [123 Cal.Rptr.2d 202]
- Secret of client
 - duty of lawyer to preserve
 - Business and Professions Code section 6068(e)
 - CAL 1988-96, CAL 1986-87, CAL 1981-58, p. 2, CAL 1980-52
 - LA 456, LA 452 (1988), LA 436 (1985), LA 409 (1983),

CONFLICT OF INTEREST

- LA 386 (1980)
secret includes criminal or fraudulent acts
CAL 1988-96, CAL 1986-87
- Settlement, private
Winkler v. Superior Court (1996) 51 Cal.App.4th 233 [58 Cal.Rptr.2d 791]
agreement providing that attorney waives specified fees if client agrees not to accept a confidentiality clause in any settlement permitted if client retains the authority to settle the case without the lawyer's consent
LA 505 (2000)
- "Smoking gun"
United States v. Kellington (9th Cir. (Oregon) 2000) 217 F.3d 1084
In re Grand Jury Subpoena (Horn) (9th Cir. 1992) 976 F.2d 1314, 1317
CAL 1984-76, LA 466 (1991)
- Status of suspended corporations
Palm Valley Homeowners Association, Inc. v. Design MTC (2000) 85 Cal.App.4th 553 [102 Cal.Rptr.2d 350]
LA 408 (1982)
- Supervision of employees
attorneys must prohibit their employees from violating confidences of former employers as well as confidences of present clients
In re Complex Asbestos Litigation (1991) 232 Cal.App.3d 572 [283 Cal.Rptr. 732]
duty to maintain client confidences when sharing facilities and staff with other attorneys
CAL 1997-150
duty to maintain client confidences when sharing facilities with non-lawyers
In re Valinoti (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 498
- Telephone "hotline" taking legal inquiries from callers
LA 449 (1988)
- Trusts
trust's attorney need not disclose to beneficiaries confidential communication with trustee
Wells Fargo Bank v. Superior Court (Boltwood) (2000) 22 Cal.4th 201 [901 Cal.Rptr.2d 716]
- Unauthorized dismissal of case
Foot v. State Bar (1951) 37 Cal.2d 127, 128-129 [230 P.2d 617]
- Use of
following disqualification due to a conflict of interest
CAL 1970-22
former in-house counsel may disclose employer-client confidences to her own attorneys to the extent relevant to her wrongful termination action
Fox Searchlight Pictures, Inc., v. Paladino (2001) 89 Cal.App.4th 294 [106 Cal.Rptr.2d 906]
in action against former client
-attorney plaintiff may not prosecute a lawsuit if client confidences would be disclosed unless statute removes the protection of the attorney-client privilege
General Dynamics Corp. v. Superior Court (1994) 7 Cal.4th 1164, 1190 [32 Cal.Rptr.2d 1]
Solin v. O'Melveny & Myers, LLP (2001) 89 Cal.App.4th 451 [107 Cal.Rptr.2d 456]
SD 1970-2
in action to collect fee involving client
LA 452 (1988), LA 159 (1945), LA (I) 1961-3
in representation of another client
LA 506, LA 366 (1977)
in representing former client's opponent
SD 1976-10
revelation to entertainment industry regarding client's case
LA 409 (1983)
- Waiver [See Privilege. waiver]
Whereabouts of client
CAL 1989-111, LA (I) 1931-2
- Withdrawal
in camera disclosure of general information as basis for
Manfredi & Levine v. Superior Court (1998) 66 Cal.App.4th 1128 [78 Cal.Rptr. 494]
in camera disclosure of possible client perjury
People v. Brown (1988) 203 Cal.App.3d 1335
LA 498 (1999)
- Withholding client funds
Burns v. State Bar (1955) 45 Cal.2d 296, 302 [288 P.2d 514]
Sullivan v. State Bar (1955) 45 Cal.2d 112 [287 P.2d 778]
Wrongfully retaining client money
Griffith v. State Bar (1945) 26 Cal.2d 273, 275 [158 P.2d 1]
- CONFLICT OF INTEREST** [See Adverse interest. Attorneys of Governmental Agencies. Confidences of the client. Duty to disclose. Termination. Withdrawal. 18 Santa Clara L.Rev 997, 1003 (1978).]
Acceptance of adverse employment
Rule 4-101, Rules of Professional Conduct [former rule 5] (operative until May 26, 1989)
Rule 3-310, Rules of Professional Conduct (operative as of May 27, 1989)
Grove v. Grove Valve & Regulator Co. (1963) 213 Cal.App.2d 646 [29 Cal.Rptr. 150]
Stockton Theatres, Inc. v. Palermo (1953) 121 Cal.App.2d 616, 624-626 [264 P.2d 74]
CAL 1988-96, CAL 1986-87, CAL 1980-52
LA 452 (1988), LA 448 (1987), LA 436 (1985), LA 409 (1983), LA 406 (1982), LA 395 (1982), LA 386 (1980), LA 242 (1957), LA 237 (1956), LA 223 (1955), LA 216 (1953), LA 170 (1949), LA 136 (1941)
SD 1968-3
client in one matter, later opposing party in unrelated matter
Dill v. Superior Court (1984) 158 Cal.App.3d 301, 304 [205 Cal.Rptr. 671]
Jeffrey v. Pounds (1977) 67 Cal.App.3d 6 [136 Cal.Rptr. 373]
LA 418 (1983), LA 406 (1982)
consultation with opposing party related to fees only, not to issues of cause of action
Hicks v. Drew (1897) 117 Cal. 305, 307-308 [49 P. 189]
continuing relationship with opposing party deemed conflict
Shaeffer v. State Bar (1934) 220 Cal. 681
dual representation after disclosure and upon receipt of consent
Lessing v. Gibbons (1935) 6 Cal.App.2d 598 [45 P.2d 258]
necessity for consent of parties
61 Ops. Cal. Atty. Gen. 18, 19 (1/5/78; No. CV 77-118)
60 Ops. Cal. Atty. Gen. 206, 212 (7/7/77; No. CV 76-14)
preparing answer for in propria persona defendant while representing plaintiff in same matter
LA 432 (1984)
public defender may not set up separate division within office to represent criminal defendant where conflict present
59 Ops. Cal. Atty. Gen. 27 (1/15/76; No. CV 72-278)
representation of arbitrator presently hearing matter
LA 415 (1983)
representation of both husband and wife in a divorce action
Ishmael v. Millington (1966) 241 Cal.App.2d 520 [50 Cal.Rptr. 592]
representation of criminal defendant in one matter and representation of another client in a related matter is an actual conflict
People v. Easley (1988) 46 Cal.3d 712
representation of husband and wife in estate planning, later represents husband in Marvin agreement
LA 448 (1987)
- Acceptance of adverse interest
Potter v. Moran (1966) 239 Cal.App.2d 873 [49 Cal.Rptr. 229]
inadequate evidence to determine conflict of interest
Pringle v. La Chappelle (1999) 73 Cal.App.4th 1000 [87 Cal.Rptr.2d 90]
- Accepting compensation from other than client
Rule 3-310(F), Rules of Professional Conduct (operative as of September 14, 1992)
LA 500 (1999)

CONFLICT OF INTEREST

Accepting employment adverse to client

Rules 4-101 and 5-102, Rules of Professional Conduct (operative until May 26, 1989)
 Rule 3-310, Rules of Professional Conduct (operative as of May 27, 1989)
State Farm Mutual Automobile Insurance Company v. Federal Insurance Company (1999) 72 Cal.App.4th 1422 [86 Cal.Rptr.2d 20]

Acquisition of adverse interest

absolute prohibition

Ames v. State Bar (1973) 8 Cal.3d 910, 915 fn.8

acquiring former client's collection business and clientele

David Welch Company v. Erskine and Tully (1988) 203 Cal.App.3d 884 [250 Cal.Rptr. 339]

advice of independent counsel

Connor v. State Bar (1990) 50 Cal.3d 1047

Hawk v. State Bar (1988) 45 Cal.3d 589

Ritter v. State Bar (1985) 40 Cal.3d 595

In re Peavey (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 483

In the Matter of Hagen (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 153

-partner not an independent counsel

Connor v. State Bar (1990) 50 Cal.3d 1047

adverse pecuniary interest must be "knowingly acquired"

In the Matter of Cacioppo (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 128

asset in probate estate acquired by attorney in apparent satisfaction of fee

Fall v. State Bar (1944) 25 Cal.2d 149, 152-154 [153 P.2d 1]

attorney's dual capacity as attorney and real estate broker

LA 470 (1992)

attorney enters into partnership with client

Kapelus v. State Bar (1987) 44 Cal.3d 179

-finder's fee

Tuohey & Barton v. Anaheim Memorial Hospital (1986) 187 Cal.App.3d 609

-judgment proceeds as source of attorney fee

LA 416 (1983)

-representation/business relationship with living trust marketer

CAL 1997-148

-security for fees

LA 407 (1982), LA 398 (1982)

-selling information regarding case to entertainment industry

LA 409 (1983)

attorney's purchase of real property which was the subject matter of client representation

Tomblin v. Hill (1929) 206 Cal. 689

before termination of attorney-client relationship requires compliance with rule 5-101

Arden v. State Bar (1987) 43 Cal.3d 713

bidding on government contract requiring client's consent to waiver of client's attorney-client and work product privileges

LA 435

borrowing money from client

In re Tallant (9th Cir. 1998) 218 B.R. 58

Sugarman v. State Bar (1990) 51 Cal.3d 609

Slavkin v. State Bar (1989) 49 Cal.3d 894 [264 Cal.Rptr. 131]

Rhodes v. State Bar (1989) 49 Cal.3d 50

Dixon v. State Bar (1982) 32 Cal.3d 728, 733

Giovanazzi v. State Bar (1980) 28 Cal.3d 465 [169 Cal.Rptr. 581, 619 P.2d 1005]

In re Peavey (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 483

In the Matter of Freydl (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 349

In the Matter of Hagen (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 153

-absence of security for a loan is an indication of unfairness

In the Matter of Hagen (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 153

-full disclosure and written consent required

McKnight v. State Bar (1991) 53 Cal.3d 1025

Lipson v. State Bar (1991) 53 Cal.3d 1010

Beery v. State Bar (1987) 43 Cal.3d 802 [239 Cal.Rptr. 121]

Frazer v. State Bar (1987) 43 Cal.3d 564

Lewis v. State Bar (1981) 28 Cal.3d 683 [170 Cal.Rptr. 634, 621 P.2d 258]

In re Peavey (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 483

borrowing money from trust where attorney is trustee

Schneider v. State Bar (1987) 43 Cal.3d 784 [239 Cal.Rptr. 111]

business transaction with client

In re Tallant (9th Cir. 1998) 218 B.R. 58

In the Matter of Silverton (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 252

SF 1997-1

-burden of proof on attorney that dealings fair and reasonable

Rodgers v. State Bar (1989) 48 Cal.3d 300 [256 Cal.Rptr. 381]

Hunnecutt v. State Bar (1988) 44 Cal.3d 362, 372-373 [243 Cal.Rptr. 699]

In re Gillis (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 387

In re Peavey (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 483

In the Matter of Silverton (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 252

In the Matter of Priamos (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 824

In the Matter of Hagen (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 153

In the Matter of Lillian Brown Johnson (Review Dept. 1995) 3 Cal. State Bar Ct. Rptr. 233

CAL 1995-140, LA 477

-fee financing plan

CAL 2002-159

OR 93-002

-law partner not "independent counsel" for purpose of conflicts rule

Connor v. State Bar (1990) 50 Cal.3d 1047

-moral turpitude found

In the Matter of Priamos (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 824

-no violation found if no financial gain and not a party to the transaction

In the Matter of Fandey (Review Dept. 1994) 2 Cal. State Bar Ct. Rptr. 767

-not found where attorney merely refers client to real estate broker for loan for legal fees and there is no referral fee from broker and attorney does not represent any party in the loan transaction

CAL 2002-159

-strictly scrutinized for fairness

Rodgers v. State Bar (1989) 48 Cal.3d 300 [256 Cal.Rptr. 381]

Beery v. State Bar (1987) 43 Cal.3d 802, 812-813

Passante, Jr. v. McWilliam (1997) 53 Cal.App.4th 1240 [62 Cal.Rptr.2d 298]

In re Peavey (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 483

In the Matter of Lillian Brown Johnson (Review Dept. 1995) 3 Cal. State Bar Ct. Rptr. 233

In the Matter of Hagen (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 153

business transaction with former client from fund which resulted from representation, attorney-client relationship exists even if representation has otherwise ended

Hunnecutt v. State Bar (1988) 44 Cal.3d 362 [243 Cal.Rptr. 699]

In re Gillis (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 387

CONFLICT OF INTEREST

- compensation from third party affecting professional judgment
LA 317 (1970)
- confession of judgment
 - In the Matter of Lane (Review Dept. 1994) 2 Cal. State Bar Ct. Rptr. 735
- entering into loan transaction with client – attorney has one client loan money to another client
 - Rodgers v. State Bar (1989) 48 Cal.3d 300 [256 Cal.Rptr. 381]
 - Hunnicutt v. State Bar (1988) 44 Cal.3d 362
- estate attorney charging personal representative personally for services performed
LA 470 (1992), LA 347 (1975)
- judgment proceeds as source of attorney fee
LA 416 (1983)
- lending money to client by attorney
 - Dixon v. State Bar (1982) 32 Cal.3d 728, 733
 - Bradpiece v. State Bar (1974) 10 Cal.3d 742, 744
 - In the Matter of Fonte (Review Dept. 1994) 2 Cal. State Bar Ct. Rptr. 752
 - In the Matter of Lane (Review Dept. 1994) 2 Cal. State Bar Ct. Rptr. 735
- lien against recovery in unrelated matter to secure fees owed not subject to CRPC 3-300
LA 496 (1998)
- no duty to recommend specific lawyer
 - Maltaman v. State Bar (1987) 43 Cal.3d 924
- not found
 - where attorney merely refers client to real estate broker for loan for legal fees and there is no referral fee from broker and attorney does not represent any party in the loan transaction
CAL 2002-159
- note and deed of trust for personal gain
 - Lee v. State Bar (1970) 2 Cal.3d 927
- note secured by deed of trust to secure fees is an “adverse” interest requiring compliance with rule 5-101
 - Read v. State Bar (1991) 53 Cal.3d 394, mod. at 53 Cal.3d 1009A
 - Hawk v. State Bar (1988) 45 Cal.3d 589 [247 Cal.Rptr. 599]
 - LA 492 (1998)
- open-ended credit transaction found unfair
 - Morgan v. State Bar (1990) 51 Cal.3d 598
- patent prosecution, compliance with 3-300 not required where attorney’s fees are linked to the proceeds of the patent but attorney has no ability to summarily extinguish the client’s ownership interest
LA 507
- purchase of property which is the subject matter of the litigation
 - Silver v. State Bar (1974) 13 Cal.3d 134 [117 Cal.Rptr. 821, 528 P.2d 1157]
- purchase of real property subject of collection effort on behalf of client
 - Marlowe v. State Bar (1965) 63 Cal.2d 304, 307 [46 Cal.Rptr. 326, 405 P.2d 150]
- purchase of second deed of trust by wife of attorney deemed adverse to client
 - Calzada v. Sinclair (1970) 6 Cal.App.3d 903 [86 Cal.Rptr. 387]
- quitclaim deed and general power of attorney which permit attorney to summarily extinguish a client’s property interest constitutes an adverse interest
 - Brockway v. State Bar (1991) 53 Cal.3d 51
- representation of insurer and party adverse to insurance company
 - Anderson v. Eaton (1930) 211 Cal. 113, 116-117 [293 P. 788]
 - 30 Ops. Cal. Atty. Gen. 86 (8/23/57; No. 57-149)
 - CAL 1981-57, CAL 1980-52, CAL 1979-49,
 - CAL 1977-46, CAL 1975-35, CAL 1969-18
 - LA 407 (1982)
- security for fees
LA 492 (1998), LA 407 (1982), LA 398 (1982)
- selling information regarding case to entertainment industry
LA 409 (1983)
- structured settlement, use of
CAL 1987-94
- taking business clientele from a former client
 - David Welch Company v. Erskine and Tully (1988) 203 Cal.App.3d 884 [250 Cal.Rptr. 339]
- Actual or potential conflict
 - People v. Easley (1988) 46 Cal.3d 712 [250 Cal.Rptr. 855]
- Adjuster, former acts against former employer
LA 216 (1953)
- act for both parties
Civil Code section 225(m)
- counsel for adopting parents advises natural parents
Civil Code section 225m
- represent one party in, after advising the other
LA(l) 1958-6
- written consent
Civil Code section 225(m)
- Adoption
 - Civil Code section 225(m)
 - LA 407 (1982)
 - representation of natural parent and proposed adopting parents
 - Arden v. State Bar (1959) 52 Cal.2d 310 [341 P.2d 6]
- Adverse interest
 - LA 418 (1983)
 - attorney acting as receiver for corporation and acting as attorney against same corporation
LA 74 (1934)
 - attorney both partner in partnership arrangement and counsel to partnership and another party
 - Olivet v. Frischling (1980) 104 Cal.App.3d 831, 842 [164 Cal.Rptr. 87]
 - attorney for defendant accusing client of being in collusion with plaintiff
 - Pennix v. Winton (1943) 61 Cal.App.2d 761, 769-777 [143 P.2d 940]
 - attorney for estate attempts to purchase property of beneficiary for substantially less than the true value
 - Sodikoff v. State Bar (1975) 14 Cal.3d 422 [121 Cal.Rptr. 467, 535 P.2d 331]
 - attorney involvement in fee dispute with client and prior attorney over fees not arising out of current representation
 - Jackson v. State Bar (1975) 15 Cal.3d 372 [124 Cal.Rptr. 185, 540 P.2d 25]
 - attorney retained by a party to recover monies owed subsequently becomes involved with opposing party to detriment of original client
 - Lee v. State Bar (1970) 2 Cal.3d 927 [88 Cal.Rptr. 361, 472 P.2d 449]
 - authorization for attorney to keep any extra sums resulting from a compromise of the claims of medical care providers
 - In the Matter of Silverton (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 252
 - confession of judgment deemed detrimental to client
 - Hulland v. State Bar (1972) 8 Cal.3d 440 [105 Cal.Rptr. 152, 503 P.2d 608]
 - county counsel with private practice may not represent district organized under Municipal Water District Act of 1911
30 Ops. Cal. Atty. Gen. 86 (8/23/57; No. 57-149)
 - defined
 - LA 496 (1998), SF 1997-1
 - disclosure and consent per rule 3-300 not a cure when matter is governed by probate code
SD 1989-2
 - executor hiring attorney
 - Estate of Efron (1981) 117 Cal.App.3d 915, 928 [173 Cal.Rptr. 93]
 - financial interest in the subject matter of the representation
 - accepting compensation from broker for referring client
SD 1989-2
 - accepting compensation from doctor for client referral
LA 443 (1987)

CONFLICT OF INTEREST

- accepting compensation from insurance agent for client referral
 - CAL 1995-140
- accepting compensation from investment manager for client referral
 - CAL 1999-154
- in corporation about which client desires legal advice
 - LA 57 (1928)
- former client
 - LA 2 (1917)
- in litigation
 - Gendron v. State Bar (1983) 35 Cal.3d 409
 - LA 30 (1925), SD 1976-10
- former corporate counsel now counsel for stockholders in derivative suit
 - Jacuzzi v. Jacuzzi Bros., Inc. (1963) 218 Cal.App.2d 24, 29 [32 Cal.Rptr. 188]
- injury to former client due to representation of current client
 - McPhearson v. Michaels Company (2002) 96 Cal.App.4th 843 [117 Cal.Rptr.2d 489]
 - Gilbert v. National Corporation for Housing Partnerships (1999) 71 Cal.App.4th 1240 [84 Cal.Rptr. 204]
 - Big Bear Municipal Water District v. Superior Court (1969) 269 Cal.App.2d 919, 925-929 [75 Cal.Rptr. 580]
- insurance company and insured [See Insurance.]
 - Industrial Indem. Co. v. Great American Ins. Co. (1977) 73 Cal.App.3d 529 [140 Cal.Rptr. 806]
 - Lysick v. Walcom (1968) 258 Cal.App.2d 136, 146 [65 Cal.Rptr. 406]
- and other party
 - Hammitt v. McIntyre (1952) 114 Cal.App.2d 148 [249 P.2d 885]
- in litigation
 - against former client
 - concerning subject about which lawyer given legal advice
 - LA 27 (1925)
 - with client regarding management of suit
 - SD 1978-1
- litigation continued after contrary instructions from client
 - Johnson v. State Bar (1935) 4 Cal.2d 744, 759 [52 P.2d 928]
- loaning money received on behalf of estate to other clients without approval of administratrix
 - Black v. State Bar (1972) 7 Cal.3d 676, 681 [103 Cal.Rptr. 288, 499 P.2d 968]
- pecuniary interests adverse to client
 - subject to CRPC 3-300 if attorney can extinguish the client's property interest without judicial scrutiny
 - SF 1997-1
- pending litigation
 - attorney may post and guarantee fidelity bond for out-of-country client
 - SF 1973-16
- promissory note as security for fees
 - CAL 1981-62, SF 1997-1, LA 492 (1998)
- property purchased by wife of attorney subject matter of original client consultation
 - Calzada v. Sinclair (1970) 6 Cal.App.3d 903, 914-915 [86 Cal.Rptr. 387]
- publication of article regarding client's case
 - no conflict found
 - LA 451 (1988)
- purchase of property by attorney at a foreclosure sale
 - LA 455
- represent city in prosecution of actions and represent city employee against city
 - in unrelated matters
 - LA 77 (1934)
- represent client before arbitrator while simultaneously representing arbitrator on unrelated matter
 - LA 415 (1983)
- represent defendant client and attorney who represents plaintiff
 - in unrelated matters
 - SD 1975-19
 - sale of real property by attorney to a client necessitates full disclosure of ownership interests
 - Gallagher v. State Bar (1981) 28 Cal.3d 832, 835-838 [171 Cal.Rptr. 325, 622 P.2d 421]
 - structured settlement, use of
 - CAL 1987-94
 - when trustee is also creditor
 - Vivitar Corporation v. Broten (1983) 143 Cal.App.3d 878 [192 Cal.Rptr. 281]
- Adverse party
 - communication with unrepresented party
 - CAL 1996-145, LA 334 (1973)
 - compelled to communicate directly with party
 - Gregory v. Gregory (1949) 92 Cal.App.2d 343, 349 [206 P.2d 1122]
 - disclosure of relationship between attorney and family members as adverse parties to client
 - Codiga v. State Bar (1978) 20 Cal.3d 788, 792 [144 Cal.Rptr. 404, 575 P.2d 1186]
 - failure to disclose relationship with
 - Hawkins v. State Bar (1979) 23 Cal.3d 622 [155 Cal.Rptr. 234, 591 P.2d 524]
 - fraudulent conduct of reported
 - SF 1975-2
 - instruct client with respect to communications with opposing party
 - CAL 1993-131, SD 1983-2
 - insurance cases, company and insured [See Insurance.]
 - plaintiffs' class counsel offered employment by defendant
 - Linney v. Cellular Alaska Partnership (9th Cir. 1998) 151 F.3d 1234 [41 Fed.R.Serv.3d 1079]
 - previously consulted attorney on another matter
 - CAL 1984-84, LA 406 (1982)
 - relationship with opposing counsel not considered a relationship with adverse party
 - SD 1989-4, SD 1976-12, CAL 1984-83
 - represent city in prosecution of actions and represent city employee against city
 - in unrelated matters
 - LA 77 (1934)
 - representation in related matter against former client
 - City National Bank v. Adams (2002) 96 Cal.App.4th 315 [117 Cal.Rptr.2d 125]
 - representation of
 - after obtaining information from
 - LA 193 (1952)
 - one against the other after investigation
 - LA 223 (1954)
 - related matter
 - LA 223 (1954), LA 141 (1943)
 - unrelated action
 - against client
 - LA 6 (1918)
 - representation of, in unrelated matter against existing client
 - American Airlines v. Sheppard Mullin, Richter & Hampton (2002) 96 Cal.App.4th 1017 [117 Cal.Rptr.2d 685]
 - State Farm Mutual Automobile Insurance Company v. Federal Insurance Company (1999) 72 Cal.App.4th 1422 [86 Cal.Rptr.2d 20]
 - Stanley v. Richmond (1995) 35 Cal.App.4th 1070 [41 Cal.Rptr.2d 768]
 - Flatt v. Superior Court (1994) 9 Cal.4th 275 [36 Cal.Rptr.2d 537]
 - Truck Insurance Exchange v. Fireman's Fund Insurance Co. (1992) 6 Cal.App.4th 1050 [8 Cal.Rptr.2d 228]
 - Jeffrey v. Pounds (1977) 67 Cal.App.3d 6 [136 Cal.Rptr. 373]
 - represented
 - by former partner
 - CAL 1981-57

CONFLICT OF INTEREST

- social relationship; attorney and opposing party
 - club membership of attorney as impacts representation of client against club
 - Pepper v. Superior Court (1977) 76 Cal.App.3d 252, 261-262 [142 Cal.Rptr. 759]
 - DeLong v. Miller (1955) 133 Cal.App.2d 175 [283 P.2d 762]
- Adverse position
 - attorney for criminal defendant adopted position in direct opposition to that of his client
 - People v. Davis (1957) 48 Cal.2d 241, 256 [309 P.2d 1]
- All affected clients' consent
 - applies to current not former clients
 - LA 463 (1990)
- Appeal
 - disqualification order not appealable in the grand jury context
 - In re Grand Jury Investigation (9th Cir. 1999) 182 F.3d 668
 - from pre-trial order denying motion to disqualify counsel for conflict of interest
 - standard requires showing on appeal that order affected outcome of case
 - In re Sophia Rachel B. (1988) 203 Cal.App.3d 1436 [250 Cal.Rptr. 802]
 - order denying motion to disqualify not an immediately appealable final order
 - Manley v. Fireman's Fund Insurance Co. (9th Cir. 1989) 883 F.2d 747
- Appearance of conflict
 - Hambarian v. Superior Court (2002) 27 Cal.4th 826 [118 Cal.Rptr.2d 725]
 - People v. Eubanks (1996) 14 Cal.4th 580 [59 Cal.Rptr.2d 200]
 - People v. Conner (1983) 34 Cal.3d 141, 148 [193 Cal.Rptr. 148, 666 P.2d 5]
 - Lewis v. Superior Court (1997) 53 Cal.App.4th 1277 [62 Cal.Rptr.2d 331]
 - People v. Pastrano (1997) 52 Cal.App.4th 610 [60 Cal.Rptr.2d 620]
- Appearance of impropriety
 - Bankruptcy of Mortgage & Realty Trust (1996) 195 B.R. 740
 - In re Georgetown Park Apartments (9th Cir. BAP 1992) 143 B.R. 557
 - W. L. Gore & Assoc. v. Intern. Medical Prosthetics (9th Cir. 1984) 745 F.2d 1463, 1467
 - Neal v. Health Net, Inc. (2002) 100 Cal.App.4th 831 [123 Cal.Rptr.2d 202]
 - DCH Health Services Corp. v. Waite (2002) 95 Cal.App.4th 829 [115 Cal.Rptr.2d 847]
 - Higdon v. Superior Court (1991) 227 Cal.App.3d 1667 [278 Cal.Rptr. 588]
 - Gregori v. Bank of America (1989) 207 Cal.App.3d 291, 305-306 [254 Cal.Rptr. 853]
 - Comden v. Superior Court (1978) 20 Cal.3d 906, 912 [145 Cal.Rptr. 9, 576 P.2d 971]
 - People v. Lopez (1984) 155 Cal.App.3d 813, 823-824 [202 Cal.Rptr. 333]
 - *People v. Municipal Court (Wolfe) (1975) 69 Cal.App.3d 714 [138 Cal.Rptr. 235]
 - CAL 1981-63
 - LA 363 (1979)
 - absent an actual conflict between an opposing attorney's clients, a party should not be able to create one by merely filing a meritless cross-complaint
 - Federal Home Loan Mortgage Corporation v. La Conchita Ranch Company (1998) 68 Cal.App.4th 856 [80 Cal.Rptr.2d 634]
 - former employee of defendant may become a client of plaintiff's attorney and may communicate confidential information to that attorney
 - Neal v. Health Net, Inc. (2002) 100 Cal.App.4th 831 [123 Cal.Rptr.2d 202]
 - standard has never been used by a California court as the sole basis for disqualification
 - In re Complex Asbestos Litigation (1991) 232 Cal.App.3d 572 [283 Cal.Rptr. 732]
 - Gregori v. Bank of America (1989) 207 Cal.App.3d 291, 305-306 [254 Cal.Rptr. 853]
- Arising from relationship with non-client
 - Morrison Knudsen Corp. v. Hancock, Rothert & Bunshoft, LLP (1999) 69 Cal.App.4th 223 [81 Cal.Rptr.2d 425]
- Arising out of formation of partnership with out-of-state law firm
 - LA 392 (1981)
- Assignee
 - represent
 - against former client's assignee in matter in which acted for client
 - LA(l) 1961-2
- Associate
 - city attorney's
 - practice by
 - LA(l) 1975-4
 - city council member's, practice by
 - CAL 1977-46
 - LA(l) 1975-4
 - moving to opposing side – now representing opposing party
 - Dill v. Superior Court (1984) 158 Cal.App.3d 301 [205 Cal.Rptr. 671]
 - LA 363 (1976)
 - practice by employer when associate
 - is prosecutor
 - LA 377 (1978)
- Attorney acting as arbitrator
 - improper for an attorney appearing before him to represent him
 - LA 415 (1983)
- Attorney general
 - withdrawing from representation of one party then suing the same clients on the identical controversy
 - People ex rel Deukmejian v. Brown (1981) 29 Cal.3d 150, 155 [172 Cal.Rptr. 478, 624 P.2d 1206]
- Attorney-client relationship
 - Cumis counsel does not have attorney-client relationship with insurer for purposes of disqualification
 - San Gabriel Basin Water Quality Authority v. Aerojet-General Corp. (C.D. Cal. 2000) 105 F.Supp.2d 1095
 - Assurance Co. of America v. Haven (1995) 32 Cal.App.4th 78, 90 [38 Cal.Rptr.2d 25]
 - existence of
 - Arden v. State Bar (1959) 52 Cal.2d 310 [341 P.2d 6]
 - Perkins v. West Coast Lumber Co. (1900) 129 Cal. 427 [62 P. 57]
 - Hicks v. Drew (1897) 117 Cal. 305, 307-308 [49 P. 189]
 - Miller v. Metzinger (1979) 91 Cal.App.3d 31 [154 Cal.Rptr. 22]
 - Ward v. Superior Court (1977) 70 Cal.App.3d 23, 31 [138 Cal.Rptr. 532]
 - In re Charles L. (1976) 63 Cal.App.3d 760, 764 [132 Cal.Rptr. 840]
 - Kraus v. Davis (1970) 6 Cal.App.3d 484, 490-491 [85 Cal.Rptr. 846]
 - Meehan v. Hopps (1956) 144 Cal.App.2d 284, 287 [301 P.2d 101]
 - McGregor v. Wright (1931) 117 Cal.App. 186 [3 P.2d 624]
 - CAL 1977-47
 - arising out of a joint defense agreement
 - United States v. Henke (9th Cir. 2000) 222 F.3d 633
 - fiduciary relationship exists in absence of fee agreement
 - Beery v. State Bar (1987) 43 Cal.3d 802 [239 Cal.Rptr. 121]
 - for conflicts of interest purposes, an attorney represents the client when the attorney knowingly obtains material confidential information from the client and renders legal advice or services as a result
 - People ex rel. Dept. of Corporations v. Speedee Oil Change Systems (1999) 20 Cal.4th 1135 [86 Cal.Rptr.2d 816]
 - former client
 - exists when transaction involves funds obtained by representation
 - Hunnecutt v. State Bar (1988) 44 Cal.3d 362 [243 Cal.Rptr. 699]

CONFLICT OF INTEREST

- In re Gillis (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 387
- law firm acquires former client's collection business
David Welch Company v. Erskine and Tully (1988) 203 Cal.App.3d 884 [250 Cal.Rptr. 339]
 - minor and guardian
Evidence Code section 951
CAL 1988-96
 - "on-going relationship" between attorney and client based on periodic visits to attorney's office seeking legal assistance
In the Matter of Hagen (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 153
 - preparing answer for in propria persona defendant creates relationship
LA 432 (1984)
 - purchaser of client's assets
LA 433 (1984)
 - telephone "hotline" providing legal advice to callers
LA 449 (1988)
- for purposes of disqualification, attorney representing insured is also representing insurance company
State Farm Mutual Automobile Insurance Company v. Federal Insurance Company (1999) 72 Cal.App.4th 1422 [86 Cal.Rptr.2d 20]
- formed with bank when attorney writes an opinion letter for bank at the request of a client who is a customer of the bank
City National Bank v. Adams (2002) 96 Cal.App.4th 315 [117 Cal.Rptr.2d 125]
- substantial attorney-client relationship must be shown
People v. Thoi (1989) 213 Cal.App.3d 689 [261 Cal.Rptr. 789]
- without separate relationship, there can be no conflict of interest between governmental entity and constituent entity
North Hollywood Project Area Committee v. City of Los Angeles (1998) 61 Cal.App.4th 719 [71 Cal.Rptr.2d 675]
- Avoiding adverse interests
- Rule 5-101, Rules of Professional Conduct (operative until May 26, 1989)
- Rule 3-300, Rules of Professional Conduct (operative as of May 27, 1989)
- Avoiding representation of adverse interests
- Rule 5-101, Rules of Professional Conduct (operative until May 26, 1989)
- Rule 3-300, Rules of Professional Conduct (operative as of May 27, 1989)
- Bankruptcy [See Conflict of interest, receiver.]
- In re Hines (9th Cir. BAP 1998) 198 B.R. 769 [36 Collier Bankr.CAS2d 577]
- attorney failed to disclose debtor owed prior fees to attorney
In re Elias (9th Cir. BAP 1999) 188 F.3d 1160 [34 Bankr.Ct.Dec. 1229]
- attorney for bankrupt estate not inherently in conflict if represent estate creditors against others in a separate action
Vivitar Corp. v. Broidy (1983) 143 Cal.App.3d 878 [192 Cal.Rptr. 281]
- concurrent representation of clients with adverse interests
State Farm Mutual Automobile Insurance Company v. Federal Insurance Company (1999) 72 Cal.App.4th 1422 [86 Cal.Rptr.2d 20]
- represent
- bankrupt/creditor
LA 50 (1927)
 - receiver
 - party in divorce and
LA 51 (1927)
 - receiver/general creditor
LA 74 (1934)
- Bond
- indemnity company counsel acts against assured by way of subrogation
LA(l) 1966-1
- Bonus program for public agency attorneys tied to savings by agency
SD 1997-2
- Breach of fiduciary duty
- attorney acting as counsel for both sides in leasing transaction
Olivet v. Frischling (1980) 104 Cal.App.3d 831, 842 [164 Cal.Rptr. 87]
- business dealings between attorney and client subject to scrutiny
Calzada v. Sinclair (1970) 6 Cal.App.3d 903, 915
- disbursements from community property assets in dissolution matter without consent of parties
Codiga v. State Bar (1978) 20 Cal.3d 788, 794-795 [144 Cal.Rptr. 404, 575 P.2d 1186]
- disclose to court representation of related trust
Potter v. Moran (1966) 239 Cal.App.3d 873 [49 Cal.Rptr. 229]
- duty component defined
David Welch Company v. Erskine and Tully (1988) 203 Cal.App.3d 884 [250 Cal.Rptr. 339]
- misrepresentation and undue influence induce client to sell real property to attorney
Hicks v. Clayton (1977) 67 Cal.App.3d 251
- to former client
- law firm acquires former client's collection business
David Welch Company v. Erskine and Tully (1988) 203 Cal.App.3d 884
- Business activity
- recommend own to client
LA(l) 1971-16
- represent
- customers of own
LA 205 (1953), LA(l) 1976-7
- Business or financial transactions with clients
- In re Tallant (9th Cir. 1998) 218 B.R. 58
- In the Matter of Freydl (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 349
- In the Matter of Silverton (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 252
- In the Matter of Priamos (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 824
- In the Matter of Fonte (Review Dept. 1994) 2 Cal. State Bar Ct. Rptr. 752
- In the Matter of Lane (Review Dept. 1994) 2 Cal. State Bar Ct. Rptr. 735
- SF 1997-1
- advice of independent counsel
- In re Tallant (9th Cir. 1998) 218 B.R. 58
- Connor v. State Bar (1990) 50 Cal.3d 1047
- Hawk v. State Bar (1988) 45 Cal.3d 589
- Ritter v. State Bar (1985) 40 Cal.3d 595
- Beery v. State Bar (1987) 43 Cal.3d 802, 813
- Passante, Jr. v. McWilliam (1997) 53 Cal.App.4th 1240 [62 Cal.Rptr.2d 298]
- Mayhew v. Benninghoff, III (1997) 53 Cal.App.4th 1365 [62 Cal.Rptr.2d 27]
- In the Matter of Priamos (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 824
- In the Matter of Blum (Review Dept. 1994) 3 Cal. State Bar Ct. Rptr. 170
- In the Matter of Fonte (Review Dept. 1994) 2 Cal. State Bar Ct. Rptr. 752
- In the Matter of Hagen (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 153
- SD 1992-1
- partner not an independent counsel
Connor v. State Bar (1990) 50 Cal.3d 1047
- authorization for attorney to keep any extra sums resulting from a compromise of the claims of medical care providers
In the Matter of Silverton (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 252
- burden of proof on attorney that dealings fair and reasonable
Rodgers v. State Bar (1989) 48 Cal.3d 300
- Hunnecutt v. State Bar (1988) 44 Cal.3d 362
- In re Gillis (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 387

CONFLICT OF INTEREST

In the Matter of Silverton (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 252

In the Matter of Priamos (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 824

In the Matter of Lane (Review Dept. 1994) 2 Cal. State Bar Ct. Rptr. 735

SD 1992-1

deed of trust to secure fees

Read v. State Bar (1991) 53 Cal.3d 394

Hawk v. State Bar (1988) 45 Cal.3d 589

LA 492 (1998)

duty to disclose interest

Rosenthal v. State Bar (1987) 43 Cal.3d 612

fair market value is not determinative of whether a transaction is fair and reasonable to a client

In re Gillis (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 387

full disclosure required

Beery v. State Bar (1987) 43 Cal.3d 802

Frazer v. State Bar (1987) 43 Cal.3d 564

Passante, Jr. v. McWilliam (1997) 53 Cal.App.4th 1240

In the Matter of Priamos (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 824

In the Matter of Fonte (Review Dept. 1994) 2 Cal. State Bar Ct. Rptr. 752

moral turpitude found

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In the Matter of Priamos (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 824

no violation found if no financial gain and not a party to the transaction

In the Matter of Fandey (Review Dept. 1994) 2 Cal. State Bar Ct. Rptr. 767

CAL 2002-159

overreaching and/or undue influence, presumption of

Ritter v. State Bar (1985) 40 Cal.3d 595

Giovanazzi v. State Bar (1980) 28 Cal.3d 465

stock promise to attorney is unenforceable

Passante, Jr. v. McWilliam (1997) 53 Cal.App.4th 1240

strictly scrutinized for fairness

Rodgers v. State Bar (1989) 48 Cal.3d 300

Beery v. State Bar (1987) 43 Cal.3d 802

Passante, Jr. v. McWilliam (1997) 53 Cal.App.4th 1240

Business transaction with former client

using funds obtained in the representation

In re Gillis (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 387

-attorney-client relationship continues to exist

Hunnecutt v. State Bar (1988) 44 Cal.3d 362

Child custody proceeding, disclosure to court, improper

-conflict between client and child

--suggest appointment of separate counsel for child

CAL 1976-37

Circumstances of case evidence, reasonable possibility that district attorney's office may not act in even-handed manner

People v. Conner (1983) 34 Cal.3d 141, 148

City

act against while representing insurance carrier of

SD 1974-22

advising constituent public agency ordinarily does not give rise to attorney-client relationship separate and distinct from entity of which agency is a part

North Hollywood Project Area Committee v. City of Los Angeles (1998) 61 Cal.App.4th 719 [71 Cal.Rptr.2d 675]

Civil Service Com. v. Superior Court (1984) 163 Cal.App.3d 70, 78 [209 Cal.Rptr. 159]

assist in representation of actions and represent city employee against city in unrelated matter

LA 77 (1934)

associate of

-practice by

LA(I) 1975-4

attorney

46 Ops. Cal. Atty. Gen. 74 (10/14/65; No. 64-65)

city attorney/county counsel

Ward v. Superior Court (1977) 70 Cal.App.3d 23 [138 Cal.Rptr. 532]

74 Ops. Cal. Atty. Gen. 155 (8/13/91; No. 91-201)

61 Ops. Cal. Atty. Gen. 18, 22-23 (1/5/78; No. CV 77-118)

-may serve simultaneously as a city council member

85 Ops. Cal. Atty. Gen. 115 (6/7/02; No. 01-1107)

-partner

--appointed as county counsel may contract with own firm to assist in the performance of duties

74 Ops. Cal. Atty. Gen. 155 (8/13/91; No. 91-201)

--practice by

LA(I) 1975-4

-partner represents

--in criminal matters

LA 242 (1957), LA(I) 1975-4

-practice by

--associate of

LA(I) 1975-4

-private attorney as attorney of government agency under contract with that agency

People ex rel. Clancy v. Superior Court (1984) 161 Cal.App.3d 894, 899-900

-recusal of

People v. Municipal Court (Byars) (1978) 77 Cal.App.3d 294 [143 Cal.Rptr. 491]

-simultaneously acts as a member of Coastal Regional Commission which votes on matters relating to the city

SD 1977-1

CAL 2001-156

city council member

-defense attorney in criminal matter

People v. Municipal Court (Wolfe) (1977) 69 Cal.App.3d 714 [138 Cal.Rptr. 235]

-practice by

CAL 1977-46

-practice by partners of

CAL 1981-63, CAL 1977-46

SD 1976-12, LA(I) 1975-4

-represent tort claimants against city

CAL 1981-63

-represents

--civil litigants

CAL 1977-46

--criminal defendants

CAL 1977-46

--in ordinance violations

SD 1969-1, LA 273 (1962)

--in traffic cases

SD 1969-1

fee, contingency contract with government agency

People ex rel. Clancy v. Superior Court (1984) 161 Cal.App.3d 894, 899-900

Client [This heading is used for fact situations that do not easily fit under other, less abstract headings. Most conflict of interest matters involving clients are indexed under various other headings.]

act against

LA(I) 1972-15

SD 1976-10

-in related matter

LA 448 (1987), LA(I) 1974-13, LA(I) 1971-7

-in unrelated matter

LA 266 (1959), LA(I) 1975-2, LA(I) 1971-7, LA(I) 1965-2

SD 1974-14

-witness

--against present client

---in criminal proceedings

CAL 1979-49

CONFLICT OF INTEREST

- of associate
 - represent client in claim against
 - CAL 1981-57
 - SD 1972-15
 - witness
 - against present client
 - CAL 1980-52
- former
 - act against
 - LA(l) 1972-5
 - in related matter
 - LA(l) 1977-1, LA(l) 1972-7, LA(l) 1971-7, LA(l) 1969-2
 - SD 1970-2
 - in unrelated matter
 - LA(l) 1971-7, LA(l) 1969-2, LA(l) 1964-6, SD 1974-14, SD 1974-12, SD 1970-2
- holder of the privilege
 - Evidence Code section 953
- initiation of conservatorship proceedings against
 - CAL 1989-112
 - LA 450 (1988), SD 1978-1
- multiple clients
 - Evidence Code section 962
- represent
 - despite client malpractice suit against attorney's former law corporation
 - SD 1978-10
 - self and
 - LA 39 (1927)
- Class action
 - duty of class counsel runs to the class and, in the event of conflicts, withdrawal is appropriate
 - 7-Eleven Owners for Fair Franchising v. The Southland Corporation (2000) 85 Cal.App.4th 1135 [102 Cal.Rptr.2d 277]
 - withdrawal by counsel who previously represented members opposed to the settlement, then later represented those in favor, was not improper
 - 7-Eleven Owners for Fair Franchising v. The Southland Corporation (2000) 85 Cal.App.4th 1135 [102 Cal.Rptr.2d 277]
- Class actions
 - class counsel offers to dismiss case if defendant makes multimillion dollar payment to attorney personally
 - Cal Pak Delivery, Inc. v. United Parcel Service, Inc. (1997) 52 Cal.App.4th 1
 - defendant agreed to hire class counsel to monitor the proposed settlement if approved
 - Linney v. Cellular Alaska Partnership (9th Cir. 1998) 151 F.3d 1234 [41 Fed.R.Serv.3d 1079]
- Co-counsel
 - attorney's self-interest does not create conflict with client when attorney seeks indemnification in malpractice action
 - Musser v. Provencher (2002) 28 Cal.4th 274 [121 Cal.Rptr.2d 373]
 - no fiduciary duty owed to co-counsel, where no collateral duties may interfere with duty of undivided loyalty and total devotion to client's best interest
 - Beck v. Wecht (2002) 28 Cal.4th 289 [121 Cal.Rptr.2d 384]
- Communication with treating physician
 - SD 1983-9
- Cone of silence
 - In re Complex Asbestos Litigation (1991) 232 Cal.App.3d 572 [283 Cal.Rptr. 732]
- Condemnation
 - assist governmental body, former employer, when clients of partnership involved in the matter
 - LA 246 (1957)
- Confidential information
 - People ex rel Deukmejian v. Brown (1981) 29 Cal.3d 150, 155 [172 Cal.Rptr. 478, 624 P.2d 1206]
 - Grove v. Grove Valve & Regulator Co. (1963) 213 Cal.App.2d 646 [29 Cal.Rptr. 150]
 - 60 Ops. Cal. Atty. Gen. 206, 212-213 (7/7/77; No. CV 76-14)
 - 59 Ops. Cal. Atty. Gen. 27 (1/15/76; No. CV 72-278)
 - CAL 1976-37
 - LA 435 (1985), LA 418 (1983)
 - SD 1976-10, SD 1974-12, SD 1970-2
 - SF 1973-6, SF 1973-19
 - acquisition of by virtue of employment as associate in law firm
 - Kraus v. Davis (1970) 6 Cal.App.3d 484, 491 [85 Cal.Rptr. 846]
 - associate switches sides
 - Dill v. Superior Court (1984) 158 Cal.App.3d 301 [205 Cal.Rptr. 671]
 - LA 501 (1999), LA 363 (1976)
 - actual versus potential disclosure
 - actual use or misuse not determinative – possibility of breach of confidence controls
 - Elan Transdermal v. Cygnus Therapeutic Systems (N.D. Cal. 1992) 809 F.Supp. 1383
 - American Airlines v. Sheppard Mullin, Richter & Hampton (2002) 96 Cal.App.4th 1017 [117 Cal.Rptr.2d 685]
 - David Welch Company v. Erskine and Tully (1988) 203 Cal.App.3d 884 [250 Cal.Rptr. 339]
 - Woods v. Superior Court (1983) 149 Cal.App.3d 931, 934
 - associate switches sides
 - Dill v. Superior Court (1984) 158 Cal.App.3d 301 [205 Cal.Rptr. 671]
 - LA 501 (1999), LA 363 (1976)
 - where former attorney in substantially same matter is now prosecutor
 - People v. Johnson (1980) 105 Cal.App.3d 884, 890-891 [164 Cal.Rptr. 746]
 - attorney cannot use confidences of former client to challenge client's Chapter 7 discharge of fees owed
 - In re Rindlisbacher (9th Cir. BAP 1998) 225 B.R. 180 [33 Bankr.Ct.Dec. 258, 2 Cal.Bankr.Ct.Rep. 43]
 - attorney for several clients involved in business enterprise later represents one of those clients against former associates
 - *Croce v. Superior Court (1937) 21 Cal.App.2d 18, 19 [68 P.2d 369]
 - "Chinese wall"
 - burden to show presence of screening is on the party sought to be disqualified
 - County of Los Angeles v. United States District Court (Forsyth) (9th Cir. 2000) 223 F.3d 990
 - Howitt v. Superior Court of Imperial County (1992) 3 Cal.App.4th 1575
 - cone of silence
 - County of Los Angeles v. United States District Court (Forsyth) (9th Cir. 2000) 223 F.3d 990
 - In re Complex Asbestos Litigation (1991) 232 Cal.App.3d 572 [283 Cal.Rptr. 732]
 - disqualification not required, marital relationship does not create assumption that lawyers violate duty of confidentiality
 - DCH Health Services Corp. v. Waite (2002) 95 Cal.App.4th 829 [115 Cal.Rptr.2d 847]
 - elements of
 - Bankruptcy of Mortgage & Realty Trust (1996) 195 B.R. 740
 - "ethical wall" failed to prevent district attorney from discussing case with the press
 - People v. Choi (2000) 80 Cal.App.4th 476 [94 Cal.Rptr.2d 922]
 - former court commissioner now associate in firm
 - Higdon v. Superior Court (1991) 227 Cal.App.3d 1667 [278 Cal.Rptr. 588]

CONFLICT OF INTEREST

- former government attorney now associate in law firm
LA 246 (1957)
- general analysis
Employers Insurance of Wausau v. Seeno (N.D. Cal. 1988) 692 F.Supp. 1150
- retired judge subsequently represents one of the parties in the same matter
Cho v. Superior Court (1995) 39 Cal.App.4th 113 [45 Cal.Rptr.2d 863]
- screening of law clerk hired by law firm while clerk worked for judge before whom law firm was appearing in pending matter
First Interstate Bank of Arizona v. Murphy, Weir & Butler (9th Cir. 2000) 210 F.3d 983
- screening procedures must be put in place before the "tainted" attorney is brought on board
County of Los Angeles v. United States District Court (Forsyth) (9th Cir. 2000) 223 F.3d 990
Atasi Corp. v. Seagate Technology (9th Cir. 1988) 847 F.2d 826
- separation between Public Defender and Alternate Public Defenders' offices
People v. Christian (1994) 41 Cal.App.4th 986
CAL 2002-158
- steps which must be taken to set up an effective screen
In re Complex Asbestos Litigation (1991) 232 Cal.App.3d 572 [283 Cal.Rptr. 732]
Armstrong v. McAlpin (2nd Cir. 1980) 625 F.2d 433
- vicarious disqualification not required
Adams v. Aerojet-General Corp. (2001) 86 Cal.App.4th 1324 [104 Cal.Rptr.2d 116]
- vicarious disqualification of a firm denied because of the timely and effective screening of the tainted attorney
County of Los Angeles v. United States District Court (Forsyth) (9th Cir. 2000) 223 F.3d 990
San Gabriel Basin Water Quality Authority v. Aerojet-General Corp. (C.D. Cal. 2000) 105 F.Supp.2d 1095
- vicarious disqualification of entire firm where no attempt to screen
People ex rel. Dept. of Corporations v. Speedee Oil Change Systems (1999) 20 Cal.4th 1135 [86 Cal.Rptr.2d 816]
Klein v. Superior Court (1988) 198 Cal.App.3d 894
- vicarious disqualification required despite screening measures when attorney switches sides and the attorney is not a former government attorney moving to private practice
Henriksen v. Great American Savings and Loan (1992) 11 Cal.App.4th 109 [14 Cal.Rptr.2d 184]
- when attorney is screened from participation in the matter to the satisfaction of adverse party
Raley v. Superior Court (1983) 149 Cal.App.3d 1042 [197 Cal.Rptr. 232]
Chambers v. Superior Court (1981) 121 Cal.App.3d 893, 899 [175 Cal.Rptr. 575]
LA 501 (1999)
- client and witness for co-defendant represented by same law firm
Leversen v. Superior Court (1983) 34 Cal.3d 530 [194 Cal.Rptr. 448, 668 P.2d 755]
- commonly known facts deemed not given in confidence
Stockton Theatres, Inc. v. Palermo (1953) 121 Cal.App.2d 616, 624-626 [264 P.2d 74]
- conflict occurs when prosecution calls as witness former co-defendant with whom defense attorney had an attorney-client relationship under a joint defense agreement
United States v. Henke (9th Cir. 2000) 222 F.3d 633
- county counsel representation of both parties
Ward v. Superior Court (1977) 70 Cal.App.3d 23 [138 Cal.Rptr. 532]
- detrimental use based on adverse positions as attorney for insurance company and counsel for opposing party
Anderson v. Eaton (1930) 211 Cal. 113, 116 [293 P. 788]
- disclosure
Jacuzzi v. Jacuzzi Bros. (1963) 218 Cal.App.2d 24, 29 [32 Cal.Rptr. 188]
- disclosure of, based on prior relationship with former client now opposing party
Allen v. Academic Games League (1993) 831 F.Supp. 785
Goldstein v. Lees (1975) 46 Cal.App.3d 614, 619-624 [120 Cal.Rptr. 253]
LA 501 (1999)
- disqualification based on double imputation of confidential knowledge not found when lawyer is two steps removed from attorney who has confidential information about a client
Frazier v. Superior Court (Ames) (2002) 97 Cal.App.4th 23 [118 Cal.Rptr.2d 129]
- disqualification of attorney and attorney general denied where moving party had no reasonable expectation that confidential information shared with opposing party and party was advised and consented to disclosure
Cornish v. Superior Court (1989) 209 Cal.App.3d 467
Allegaert v. Perot (9th Cir. 1977) 565 F.2d 246
- disqualification of attorney from representing debtor is not attributable to his firm under Bankruptcy Code
In re S.S. Retail Stores Corp. (9th Cir. 2000) 216 F.3d 882 [36 Bankr.Ct.Dec. 79]
- disqualification of attorney not required where record does not create reasonable probability that confidential information was divulged – attorney dating opposing firm's secretary
Gregori v. Bank of America (1989) 207 Cal.App.3d 291 [254 Cal.Rptr. 853]
- disqualification of attorney not required where substantial relationship is not shown and actual confidences of the former client are not breached
In re Marriage of Zimmerman (1993) 16 Cal.App.4th 556 [20 Cal.Rptr.2d 132]
H.F. Ahmanson & Co. v. Salomon Brothers, Inc. (1991) 229 Cal.App.3d 1445 [280 Cal.Rptr. 614]
- dissemination of information to counsel for adversary by a third party
San Gabriel Basin Water Quality Authority v. Aerojet-General Corp. (C.D. Cal. 2000) 105 F.Supp.2d 1095
Maruman Integrated Circuits, Inc. v. Consortium Co. (1985) 166 Cal.App.3d 443 [212 Cal.Rptr. 497]
Cooke v. Superior Court (1978) 83 Cal.App.3d 582, 590-592 [147 Cal.Rptr. 915]
- duty to protect continues after formal attorney-client relationship ends
David Welch Company v. Erskine and Tully (1988) 203 Cal.App.3d 884 [250 Cal.Rptr. 339]
Woods v. Superior Court (1983) 149 Cal.App.3d 931, 934 [197 Cal.Rptr. 185]
- existence of in multiple representation situations
Arden v. State Bar (1959) 52 Cal.2d 310, 319-320 [341 P.2d 6]
- former counsel for opposing party
Morrison Knudsen Corp. v. Hancock, Rothert & Bunshoft, LLP (1999) 69 Cal.App.4th 223 [81 Cal.Rptr.2d 425]
Henriksen v. Great American Savings and Loan (1992) 11 Cal.App.4th 109 [14 Cal.Rptr.2d 184]
Dill v. Superior Court (1984) 158 Cal.App.3d 301 [205 Cal.Rptr. 671]
Big Bear Mun. Water Dist. v. Superior Court (1969) 269 Cal.App.2d 919, 925-929 [75 Cal.Rptr. 580]
- former law clerk/student in firm involved in litigation against former firm's client
Allen v. Academic Games League (1993) 831 F.Supp. 785
- former state-employed attorney in firm involved in litigation against state
Chambers v. Superior Court (1981) 121 Cal.App.3d 893 [175 Cal.Rptr. 575]
- franchise group
-franchisee law firms of franchise group obtaining confidences

CONFLICT OF INTEREST

- LA 423 (1983)
impute knowledge to co-counsel
Panduit Corp. v. All States Plastic Mfg. Co., Inc. (7th Cir. 1984) 744 F.2d 1564, 1578
In re Airport Car Rental Antitrust Litigation (N.D. Cal. 1979) 470 F. Supp. 495, 501
Frazier v. Superior Court (Ames) (2002) 97 Cal.App.4th 23 [118 Cal.Rptr.2d 129]
Chadwick v. Superior Court (1980) 106 Cal.App.3d 108 [164 Cal.Rptr. 864]
LA 501 (1999)
-to all in firm
CAL 1998-152, LA 377 (1978)
imputed knowledge not found
Frazier v. Superior Court (Ames) (2002) 97 Cal.App.4th 23 [118 Cal.Rptr.2d 129]
Adams v. Aerojet-General Corp. (2001) 86 Cal.App.4th 1324 [104 Cal.Rptr.2d 116]
imputed knowledge theory holds that knowledge by any member of a law firm is knowledge by all of the attorneys, partners, and associates
In re S.S. Retail Stores Corp. (9th Cir. 2000) 216 F.3d 882 [36 Bankr.Ct.Dec. 79]
Bankruptcy of Mortgage & Realty Trust (1996) 195 B.R. 740
Elan Transdermal Limited v. Cygnus Therapeutic Systems (N.D. Cal. 1992) 809 F.Supp. 1383
Frazier v. Superior Court (Ames) (2002) 97 Cal.App.4th 23 [118 Cal.Rptr.2d 129]
Rosenfeld Construction Co., Inc. v. Superior Court (1991) 235 Cal.App.3d 566
CAL 1998-152, LA 501 (1999)
"joint-client" exception to lawyer-client privilege
Industrial Indem. Co. v. Great American Insurance Co. (1977) 73 Cal.App.3d 529 [140 Cal.Rptr. 806]
material to new representation
Adams v. Aerojet-General Corp. (2001) 86 Cal.App.4th 1324 [104 Cal.Rptr.2d 116]
LA 501 (1999)
"materiality" of confidential information may be lost through passage of time
In re Complex Asbestos Litigation (1991) 232 Cal.App.3d 572 [283 Cal.Rptr. 732]
multiple representation
SF 1973-10
obtained from non-client and useful in representation in an action on behalf of a client
Morrison Knudsen Corp. v. Hancock, Rothert & Bunshoft, LLP (1999) 69 Cal.App.4th 223 [81 Cal.Rptr.2d 425]
Raley v. Superior Court (1983) 149 Cal.App.3d 1042, 1047
obtaining during course of representation of opposing party in previous lawsuit
Wutchumna Water Co. v. Bailey (1932) 216 Cal. 564, 573-574
"of counsel" to defendant's firm becomes "of counsel" to plaintiff's firm
Atasi Corp. v. Seagate Technology (9th Cir. 1988) 847 F.2d 826
possession of as impetus to representation of client against former client
Shaeffer v. State Bar (1934) 220 Cal. 681 [32 P.2d 140]
potential disclosure
Galbraith v. State Bar (1933) 218 Cal. 329, 332-333 [23 P.2d 291]
American Airlines v. Sheppard Mullin, Richter & Hampton (2002) 96 Cal.App.4th 1017 [117 Cal.Rptr.2d 685]
-in criminal case
Yorn v. Superior Court (1979) 90 Cal.App.3d 669, 675 [153 Cal.Rptr. 295]
-representation under Joint Powers Act
Government Code section 6500, et seq.
60 Ops. Cal. Atty. Gen. 206, 212-213 (7/7/77; No. CV 76-14)
presumption of possession
Trone v. Smith (9th Cir. 1980) 621 F.2d 994, 999
Employers Insurance of Wausau v. Seeno (N.D. Cal. 1988) 692 F. Supp. 1150
In re Airport Car Rental Antitrust Litigation (N.D. Cal. 1979) 470 F. Supp. 495
City National Bank v. Adams (2002) 96 Cal.App.4th 315 [117 Cal.Rptr.2d 125]
Henriksen v. Great American Savings and Loan (1992) 11 Cal.App.4th 109, 114 [14 Cal.Rptr.2d 184]
Rosenfeld Construction Co., Inc. v. Superior Court (1991) 235 Cal.App.3d 566
H.F. Ahmanson & Co. v. Salomon Brothers, Inc. (1991) 229 Cal.App.3d 1445 [280 Cal.Rptr. 614]
Elliott v. McFarland Unified School Dist. (1985) 165 Cal.App.3d 562, 569 [211 Cal.Rptr. 802]
Civil Service Comm. v. Superior Court (1985) 163 Cal.App.3d 70 [209 Cal.Rptr. 159]
Dill v. Superior Court (1984) 158 Cal.App.3d 301 [205 Cal.Rptr. 671]
Global Van Lines v. Superior Court (1983) 144 Cal.App.3d 483, 489 [192 Cal.Rptr. 609]
-attorney never performed services for former client of attorney's former firm
San Gabriel Basin Water Quality Authority v. Aerojet-General Corp. (C.D. Cal. 2000) 105 F.Supp.2d 1095
Dieter v. Regents of the University of California (E.D. Cal. 1997) 963 F.Supp. 908
Adams v. Aerojet-General Corp. (2001) 86 Cal.App.4th 1324 [104 Cal.Rptr.2d 116]
-automatic disqualification is not appropriate for mere exposure to the opposing party's confidential information with no evidence that the attorney actually received or used such information
Neal v. Health Net, Inc. (2002) 100 Cal.App.4th 831 [123 Cal.Rptr.2d 202]
-rebuttable
County of Los Angeles v. United States District Court (Forsyth) (9th Cir. 2000) 223 F.3d 990
City National Bank v. Adams (2002) 96 Cal.App.4th 315 [117 Cal.Rptr.2d 125]
-rebuttable presumption of shared confidential information when a non-lawyer changes employment from one law firm to another
In re Complex Asbestos Litigation (1991) 232 Cal.App.3d 572 [283 Cal.Rptr. 732]
prior association with opposing party counsel by attorney for defendant
Earl Scheib, Inc. v. Superior Court (1967) 253 Cal.App.2d 703, 706 [61 Cal.Rptr. 386]
prior relationship with opposing party
City National Bank v. Adams (2002) 96 Cal.App.4th 315 [117 Cal.Rptr.2d 125]
Quaglin v. Quaglin (1979) 88 Cal.App.3d 542, 550 [152 Cal.Rptr. 47]
prior representation of co-defendant
In re Charles L. (1976) 63 Cal.App.3d 760, 763 [132 Cal.Rptr. 840]
prior representation of defendant by district attorney while in private practice
People v. Lepe (1985) 164 Cal.App.3d 685 [211 Cal.Rptr. 432]
public defender may not set up separate division within office to represent criminal defendant
59 Ops. Cal. Atty. Gen. 27 (1/15/76; No. CV 72-278)
relationship with opposing party in unrelated litigation
Image Technical Services v. Eastman Kodak Co. (9th Cir. 1998) 136 F.3d 1354
Flatt v. Superior Court (1994) 9 Cal.4th 275 [36 Cal.Rptr.2d 537]
American Airlines v. Sheppard Mullin, Richter & Hampton (2002) 96 Cal.App.4th 1017 [117 Cal.Rptr.2d 685]
Truck Insurance Exchange v. Fireman's Fund Insurance Co. (1992) 6 Cal.App.4th 1050 [8 Cal.Rptr.2d 228]
Jeffrey v. Pounds (1977) 67 Cal.App.3d 6, 9 [136 Cal.Rptr. 373]

CONFLICT OF INTEREST

Rule 3-310(E) requires court determination that a "member" has obtained confidential information for purpose of disqualification

San Gabriel Basin Water Quality Authority v. Aerojet-General Corp. (C.D. Cal. 2000) 105 F.Supp.2d 1095

Adams v. Aerojet-General Corp. (2001) 86 Cal.App.4th 1324 [104 Cal.Rptr.2d 116]

settlement confidentiality agreement

-attorney disqualified for seeking to call former clients as witnesses in pending action who were subject to

Gilbert v. National Corporation for Housing Partnerships (1999) 71 Cal.App.4th 1240 [84 Cal.Rptr. 204]

-confidentiality clause could not prevent former client from testifying in pending matter as to the facts and circumstances he witnessed

McPhearson v. Michaels Company (2002) 96 Cal.App.4th 843 [117 Cal.Rptr.2d 489]

switching sides in same matter

American Airlines v. Sheppard Mullin, Richter & Hampton (2002) 96 Cal.App.4th 1017 [117 Cal.Rptr.2d 685]

City National Bank v. Adams (2002) 96 Cal.App.4th 315 [117 Cal.Rptr.2d 125]

Henriksen v. Great American Savings and Loan (1992) 11 Cal.App.4th 109 [14 Cal.Rptr.2d 184]

Sheffield v. State Bar (1943) 22 Cal.2d 627, 630 [140 P.2d 376]

Dill v. Superior Court (1984) 158 Cal.App.3d 301, 306 [205 Cal.Rptr. 671]

CAL 198-152, LA 363 (1976), LA(l) 1962-2

-associate switches sides

LA 363 (1976)

-defense attorney to prosecutor's office

Chadwick v. Superior Court (1980) 106 Cal.App.3d 108 [164 Cal.Rptr. 864]

telephone "hotline" taking legal inquiries from callers

LA 449 (1988)

vicarious disqualification where "of counsel" attorney and law firm represented opposing parties and where "of counsel" attorney obtained confidential information and provided legal services to client

People ex rel. Dept. of Corporations v. Speedee Oil Change Systems (1999) 20 Cal.4th 1135 [86 Cal.Rptr.2d 816]

Conflicting offices

concurrently holding

4 Ops. Cal. Atty. Gen. 261 (10/11/44; No. NS-5643)

3 Ops. Cal. Atty. Gen. 18 (1/20/44; No. NS-5288)

2 Ops. Cal. Atty. Gen. 177 (8/30/43; No. NS-5077)

potential conflict

SD 1977-1

Consent

associate switches sides

LA 363 (1976)

attorney/arbitrator hiring counsel of party appearing before him requires written consent to continue arbitration

LA 415 (1983)

authority of attorney to consent to conflict without client's personal waiver

People v. Brown (1992) 5 Cal.App.4th 950

blanket waiver

CAL 1989-115

class representative's authority to make decisions concerning conflicts of interest for the entire class

Petway v. American Cast Iron Pipe Company (5th Cir. 1978) 576 F.2d 1157

client's consent to forbidden act insufficient

Ames v. State Bar (1973) 8 Cal.3d 910, 915 [106 Cal.Rptr. 489, 506 P.2d 625]

CAL 1988-105

conservatorship proceedings

OR 95-002, SF 1999-2

failure to object in a timely manner deemed to be a waiver

Trust Corporation of Montana v. Piper Aircraft Corp. (1983) 701 F.2d 85, 87-88

failure to object to district attorney as prosecutor when former counsel in action based on same facts; deemed to be waiver

People v. Johnson (1980) 105 Cal.App.3d 884, 891-892 [164 Cal.Rptr. 746]

franchise law firms of franchise group representing adverse or multiple clients

LA 423 (1983)

from buyer and seller where attorney is broker for both, but attorney to only one

LA 413 (1983)

implied

Blecher & Collins, P.C. v. Northwest Airlines, Inc. (C.D. Cal. 1994) 858 F.Supp. 1442

State Farm Mutual Automobile Insurance Company v. Federal Insurance Company (1999) 72 Cal.App.4th 1422 [86 Cal.Rptr.2d 20]

Health Maintenance Network v. Blue Cross of So. California (1988) 202 Cal.App.3d 1043

loaning money received on behalf of estate to other clients without consent of administratrix

Black v. State Bar (1972) 7 Cal.3d 676, 681 [103 Cal.Rptr. 288, 499 P.2d 968]

may not be sufficient in dual representation situations where actual, present, existing conflict

Klemm v. Superior Court (1977) 75 Cal.App.3d 893, 898 [142 Cal.Rptr. 509]

CAL 1993-133

LA 471 (1992), LA 432 (1984), LA 427 (1984)

-must withdraw

CAL 1988-96

LA 471 (1992), LA 395 (1982)

minor may not have legal capacity

LA 459 (1990)

necessity for full disclosure of representation of adverse party

Ishmael v. Millington (1966) 241 Cal.App.2d 520, 526 [50 Cal.Rptr. 592]

necessity for written consent

In re Airport Car Rental Antitrust Litigation (N.D. Cal. 1979) 470 F. Supp. 495, 500

In re Marriage of Friedman (2002) 100 Cal.App.4th 65 [122 Cal.Rptr.2d 412]

In re Marriage of Egedi (2001) 88 Cal.App.4th 17 [105 Cal.Rptr.2d 518]

Stanley v. Richmond (1995) 35 Cal.App.4th 1070 [41 Cal.Rptr.2d 768]

Dixon v. State Bar (1982) 32 Cal.3d 728, 733 [187 Cal.Rptr. 30, 653 P.2d 321]

Klemm v. Superior Court (1977) 75 Cal.App.3d 893 [142 Cal.Rptr. 509]

Industrial Indem. Co. v. Great American Insurance Co. (1977) 73 Cal.App.3d 529, 537 [140 Cal.Rptr. 806]

Jeffrey v. Pounds (1977) 67 Cal.App.3d 6, 10 [136 Cal.Rptr. 373]

+In the Matter of Aguiluz (Review Dept. 1994) 2 Cal. State Bar Ct. Rptr. 32

CAL 1998-152

-after disclosure of former representation of adverse party

CAL 1998-152, LA 406 (1982)

-by appropriate constituent of organization other than the constituent to be represented

CAL 1999-153

-by wife, where attorney represented husband and wife jointly on estate plans, later represents husband on

Marvin Agreement with another woman

LA 448 (1987)

-potential conflict waived, attorney as scrivener to marriage settlement agreement

In re Marriage of Egedi (2001) 88 Cal.App.4th 17 [105 Cal.Rptr.2d 518]

CONFLICT OF INTEREST

- wife's signature on post-nuptial agreement was tantamount to a written waiver of any potential conflict of interest
 - In re Marriage of Friedman (2002) 100 Cal.App.4th 65 [122 Cal.Rptr.2d 412]
- necessity of
 - Lee v. State Bar (1970) 2 Cal.3d 927, 941-942 [88 Cal.Rptr. 361, 472 P.2d 449]
 - People v. Davis (1957) 48 Cal.2d 241, 256 [309 P.2d 1]
 - McPhearson v. Michaels Company (2002) 96 Cal.App.4th 843 [117 Cal.Rptr.2d 489]
 - Gilbert v. National Corporation for Housing Partnerships (1999) 71 Cal.App.4th 1240 [84 Cal.Rptr. 204]
- of client
 - after disclosure of former representation of adverse party
 - LA 406 (1982)
 - attorney's relationship with courtroom personnel
 - CAL 1987-93
 - by appropriate constituent of organization other than the constituent to be represented
 - Pringle v. La Chappelle (1999) 73 Cal.App.4th 1000 [87 Cal.Rptr.2d 90]
 - CAL 1999-153
 - corporation and board of directors in derivative suit
 - LA 397 (1982)
 - representation of adverse party
 - in unrelated action
 - LA 6 (1918)
 - LA 406 (1982)
 - witness is former colleague of attorney
 - CAL 1987-93
- of opposing party
 - Earl Scheib, Inc. v. Superior Court (1967) 253 Cal.App.2d 703, 705 [61 Cal.Rptr. 386]
- parties pursuant to Joint Powers Act
 - Government Code section 6500, et seq.
 - 60 Ops. Cal. Atty. Gen. 206 (7/7/77; No. CV 76-14)
- representation of more than one party
 - Arden v. State Bar (1959) 52 Cal.2d 310 [341 P.2d 6]
 - to continued representation
 - of multiple parties
 - CAL 1975-35
 - LA 427 (1984), LA 22 (1923)
- required for full disclosure
 - Lysick v. Walcom (1968) 258 Cal.App.2d 136 [65 Cal.Rptr. 406]
- unrelated action
 - 61 Ops. Cal. Atty. Gen. 18 (1/578; No. CV 77-118)
- Conservatorship proceedings
 - CAL 1989-112, LA 450 (1988), OR 95-002, SD 1978-1, SF 1999-2
- Contingent fee from insurer, based on percentage of medical expenses recovered, for protecting insurer's lien on recovery of expenses
 - LA 352 (1976)
- Contract
 - draft
 - for both parties
 - SF 1973-26
 - for own son and other party
 - SF 1973-26
 - re-negotiation of fee contract with client while case is pending
 - CAL 1989-116
- Corporations
 - Rule 3-600, Rules of Professional Conduct (operative as of May 27, 1989)
 - Metro-Goldwyn-Mayer, Inc. v. Tracinda Corp. (1995) 36 Cal.App.4th 1832 [43 Cal.Rptr.2d 327]
 - In re Sidco (1993) 162 B.R. 299
 - Responsible Citizens v. Superior Court (1993) 16 Cal.App.4th 1717 [20 Cal.Rptr.2d 756]
 - *Matter of Jennings (Review Dept. 1995) 3 Cal. State Bar Ct. Rptr. 337
 - acting as agent for and construing contracts for potential clients of corporation
 - CAL 1968-13
 - acting as both receiver for and attorney against corporation
 - LA 74 (1934)
 - attorney (employee) sues employer/client
 - General Dynamics Corp. v. Superior Court (1994) 7 Cal.4th 1164 [876 P.2d 487]
 - attorney for governmental entity advises constituents with antagonistic positions
 - CAL 2001-156
 - corporate director/attorney representing client in transaction with corporation
 - CAL 1993-132
 - counsel for
 - corporation and CEO as individual
 - Pringle v. La Chappelle (1999) 73 Cal.App.4th 1000 [87 Cal.Rptr.2d 90]
 - former represents against
 - LA(l) 1973-5, SD 1970-2
 - in-house counsel for corporate client represents outside company in merger with client
 - LA 353 (1976)
 - former attorney for corporation representing parties in litigation against corporation covering time period of previous employment
 - Jacuzzi v. Jacuzzi Bros. (1963) 218 Cal.App.2d 24 [32 Cal.Rptr. 188]
 - organization as client
 - Responsible Citizens v. Superior Court (1993) 16 Cal.App.4th 1717 [20 Cal.Rptr. 756]
 - LA 353 (1976)
 - parent /subsidiary considered single entity for conflicts purposes
 - Teradyne, Inc. v. Hewlett-Packard Co. (N.D. Cal. 1991) 20 U.S.P.Q.2d 1143
 - Baxter Diagnostics Inc. v. AVL Scientific Corp. (C.D. Cal. 1992) 798 F.Supp. 612
 - Morrison Knudsen Corp. v. Hancock, Rothert & Bunshoft, LLP (1999) 69 Cal.App.4th 223 [81 Cal.Rptr.2d 425]
 - Brooklyn Navy Yard Cogeneration Partners v. Superior Court (1997) 60 Cal.App.4th 248 [70 Cal.Rptr.2d 419]
 - CAL 1989-113
 - representation of corporation and board of directors in derivative action
 - LA 397 (1982)
 - representation of corporation and corporate director as co-defendants
 - CAL 1999-153, LA 471 (1992)
 - representation of corporation and directors is impermissible, but attorney can represent one party
 - Forrest v. Baeza (1997) 58 Cal.App.4th 65 [67 Cal.Rptr.2d 857]
 - representation of corporation deemed not representation of corporate officers personally
 - Metro-Goldwyn-Mayer, Inc. v. Tracinda Corp. (1995) 36 Cal.App.4th 1832 [43 Cal.Rptr.2d 327]
 - Meehan v. Hopps (1956) 144 Cal.App.2d 284, 290 [301 P.2d 101]
 - representation of former shareholders against former corporate client in related matters requires disqualification because of duty of loyalty and confidentiality
 - Metro-Goldwyn-Mayer, Inc. v. Tracinda Corp. (1995) 36 Cal.App.4th 1832 [43 Cal.Rptr.2d 327]
 - representation of minority shareholder and director in proxy fight by former corporate general counsel
 - Goldstein v. Lees (1975) 46 Cal.App.3d 614 [120 Cal.Rptr. 253]
 - represents
 - corporation against director
 - LA(l) 1966-14
 - corporation and board of directors in derivative suit
 - LA 397 (1982)
 - director of represents stockholder against
 - LA(l) 1955-2

CONFLICT OF INTEREST

- incorporate
 - later represent against one incorporator
SD 1974-13
- shareholders derivative action
 - Forrest v. Baeza (1997) 58 Cal.App.4th 65 [67 Cal.Rptr.2d 857]
 - against corporation's outside counsel cannot proceed because attorney-client privilege precludes counsel from mounting meaningful defense
 - McDermott, Will & Emory v. Superior Court (James) (2000) 83 Cal.App.4th 378 [99 Cal.Rptr.2d 622]
- stockholder
 - director of corporation represents stockholder against corporation
LA(l) 1955-2
- County counsel
 - attorney for governmental entity advises constituents with antagonistic positions
CAL 2001-156
 - collective bargaining by government attorneys
 - Santa Clara County Counsel Attorneys Assn. v. Woodside (1994) 7 Cal.4th 525
 - conflict of interest rules do not bar county counsel from suing county where no breach of duties of loyalty or confidentiality
 - Santa Clara County Counsel Attorneys Assn. v. Woodside (1994) 7 Cal.4th 525
 - conflict exists when county counsel represents both minor and county department of social services
 - In re Melicia L. (1988) 207 Cal.App.3d 51 [254 Cal.Rptr. 541]
 - giving advice to independent board of retirement
80 Ops. Cal. Atty. Gen. 36 (2/7/97; No. 96-301)
 - may serve simultaneously as a city council member
85 Ops. Cal. Atty. Gen. 115 (6/7/02; No. 01-1107)
 - outside counsel represents county in tort liability also may represent parties in actions against county if unrelated matter
61 Ops. Cal. Atty. Gen. 18 (1/578; No. CV 77-118)
 - representation of both child and Department of Children Services
LA 459 (1990)
 - representation of both Sheriff's Department and Employment Appeals Board places burden on county to show effective screening or be disqualified
 - Howitt v. Superior Court of Imperial County (1992) 3 Cal.App.4th 1575
 - representation of county improper after prior representation of county commission in same matter
 - Civil Service Comm. v. Superior Court (1984) 163 Cal.App.3d 70 [209 Cal.Rptr. 159]
 - representation of district organized under Municipal Water District Act of 1911 incompatible with duties as county counsel, notwithstanding provision allowing outside private law practice
30 Ops. Cal. Atty. Gen. 86, 88 (8/23/57; No. 57-149)
 - representation of social services department and of public conservator by separate branches of the county counsel office may not be a conflict of interest
 - In re Lee G. (1991) 1 Cal.App.4th 17 [1 Cal.Rptr.2d 375]
- Creating a conflict
 - absent an actual conflict between an opposing attorney's clients, a party should not be able to create one by merely filing a meritless cross-complaint
 - Federal Home Loan Mortgage Corporation v. La Conchita Ranch Company (1998) 68 Cal.App.4th 856 [80 Cal.Rptr.2d 634]
 - conflicts of interest may arise where an attorney assumes a role other than as an attorney adverse to an existing client
 - American Airlines v. Sheppard Mullin, Richter & Hampton (2002) 96 Cal.App.4th 1017 [117 Cal.Rptr.2d 685]
- Creditor
 - counsel for represents debtor in resolving financial problems of
LA(l) 1969-5
 - counsel for uses assets of debtor in his possession to satisfy creditor's claim
LA(l) 1969-5
 - represent creditor of former client against former client
SD 1974-12
- Criminal proceedings
 - active representation of conflicting interests deprives defendant of effective assistance of counsel
 - Lockhart v. Terhune (9th Cir. 2001) 250 F.3d 1223
 - U.S. v. Christakis (9th Cir. 2001) 238 F.3d 1164
 - People v. Easley (1988) 46 Cal.3d 712 [250 Cal.Rptr. 855]
 - attorney's conflict of interest violates Sixth Amendment right to effective counsel (former representation of co-defendant in earlier trial)
 - Lockhart v. Terhune (9th Cir. 2001) 250 F.3d 1223
 - U.S. v. Christakis (9th Cir. 2001) 238 F.3d 1164
 - Fitzpatrick v. McCormick (9th Cir. 1989) 869 F.2d 1247
 - city attorney disqualified from prosecuting misdemeanor where probable future representation of city to defend actions brought by same criminal defendants
 - People v. Municipal Court (Byars) (1978) 77 Cal.App.3d 294 [143 Cal.Rptr. 491]
 - client
 - witness
 - against present client
CAL 1979-49
 - court has duty to inquire into possibility of conflict of interest on part of defense counsel
 - Lockhart v. Terhune (9th Cir. 2001) 250 F.3d 1223
 - U.S. v. Adelzo-Gonzalez (9th Cir. 2001) 268 F.3d 772
 - U.S. v. Christakis (9th Cir. 2001) 238 F.3d 1164
 - Schell v. Witek (9th Cir. 2000) 218 F.3d 1017
 - People v. Bonin (1989) 47 Cal.3d 808 [254 Cal.Rptr. 298]
 - People v. Cook (1975) 13 Cal.3d 663 [119 Cal.Rptr. 500]
 - Aceves v. Superior Court (1996) 51 Cal.App.4th 584 [59 Cal.Rptr.2d 280]
 - People v. Dancer (1996) 45 Cal.App.4th 1677 [53 Cal.Rptr.2d 282]
 - People v. Owen (1989) 210 Cal.App.3d 561 [258 Cal.Rptr. 535]
 - where court failed to inquire into potential conflicts, defendant must establish that conflict adversely affected counsel's performance
 - McPhearson v. Michaels Company (2002) 96 Cal.App.4th 843 [117 Cal.Rptr.2d 489]
 - death penalty confirmed in spite of defense counsel's alleged conflict of interest (similar representation of defendant and witness)
 - People v. Bonin (1989) 47 Cal.3d 808 [254 Cal.Rptr. 298]
 - defense attorney consults in confidence one defendant who becomes witness against other co-defendants
 - attorney may not represent other co-defendants
LA 366 (1977)
 - defense counsel and district attorney involved in personal relationship
 - People v. Jackson (1985) 167 Cal.App.3d 829 [213 Cal.Rptr. 521]
 - defense counsel married to bailiff
CAL 1987-93
 - defense counsel's secretary dating plaintiff's attorney
 - Gregori v. Bank of America (1989) 207 Cal.App.3d 291 [254 Cal.Rptr. 853]
 - disqualification
 - ineffective representation in covering attorney's conduct in failing to file timely notice of appeal
 - In re Fountain (1977) 74 Cal.App.3d 715 [141 Cal.Rptr. 654]

CONFLICT OF INTEREST

- recusal of entire D.A.'s office unnecessary when defendant and victim exchange roles in concurrent cases
People v. Hernandez (1991) 231 Cal.App.3d 172
 - when former co-defendant under a joint defense agreement is prosecution witness
United States v. Henke (9th Cir. 2000) 222 F.3d 633
 - former client
 - now co-defendant
 - disqualification
Bonin v. Vasquez (C.D. Cal. 1992) 794 F.Supp. 957
Yorn v. Superior Court (1979) 90 Cal.App.3d 669 [153 Cal.Rptr. 295]
 - now witness
 - against present client
United States v. Henke (9th Cir. 2000) 222 F.3d 633
Bonin v. Vasquez (C.D. Cal. 1992) 794 F.Supp. 957 CAL 1980-52
 - prior representation of murder victim by defense attorney
Mickens v. Taylor (2002) 535 U.S. 1074 [122 S.Ct. 1237]
 - habeas relief
 - client entitled to, when trial attorney's conflict of interest results in failure of attorney to file direct appeal
Manning v. Foster (9th Cir. (Idaho) 2000) 224 F.3d 1129
 - limited conflict does not taint defense counsel's entire representation of defendant
People v. Dancer (1996) 45 Cal.App.4th 1677 [53 Cal.Rptr.2d 282]
 - mere threat of malpractice suit against defense attorney insufficient to create actual conflict of interest
United States v. Moore (9th Cir. 1998) 159 F.3d 1154
 - no actual representation of conflicting interests when attorney was involved in his own unrelated legal matter
U.S. v. Baker (9th Cir. 2001) 256 F.3d 855
 - post-indictment subpoena on target's counsel creates possibility of conflict of interest but is insufficient to disturb conviction
United States v. Perry (9th Cir. 1988) 857 F.2d 1346
 - private attorney now district attorney prosecuting former client in a related matter
People v. Lepe (1985) 164 Cal.App.3d 685 [211 Cal.Rptr. 432]
 - representation of co-defendants
 - by same attorney
Lockhart v. Terhune (9th Cir. 2001) 250 F.3d 1223
People v. Cook (1975) 13 Cal.3d 663, 670-673 [119 Cal.Rptr. 500, 532 P.2d 148]
People v. Amaya (1986) 180 Cal.App.3d 1 [225 Cal.Rptr. 313]
People v. Elston (1982) 130 Cal.App.3d 721 [182 Cal.Rptr. 30]
 - potential conflict between
CAL 1975-35, CAL 1970-22
 - representation of criminal defendant by member of firm acting as city prosecutor
LA 453 (1989)
 - representation of one co-defendant by public defender and representation of other co-defendant by alternate public defender
People v. Christian (1996) 41 Cal.App.4th 986 [48 Cal.Rptr.2d 867]
CAL 2002-158
 - representation of subordinate
 - superior, head of criminal organization pays legal fees
CAL 1975-35
 - right to counsel includes right to waive potential conflict
People v. Burrows (1990) 220 Cal.App.3d 116 [269 Cal.Rptr. 206]
 - three strikes cases
 - *Garcia v. Superior Court (1995) 40 Cal.App.4th 552 [46 Cal.Rptr.2d 913]
SD 1995-1
- waiver of
 - by defendant
 - Alocer v. Superior Court (1988) 206 Cal.App.3d 951
 - People v. Pastrano (1997) 52 Cal.App.4th 326 [60 Cal.Rptr.2d 620]
 - People v. Peoples (1997) 51 Cal.App.4th 1592 [60 Cal.Rptr.2d 173]
 - denied if showing of a serious potential conflict
Wheat v. U.S. (1988) 486 U.S. 153 [108 S.Ct. 1692]
People v. Peoples (1997) 51 Cal.App.4th 1592 [60 Cal.Rptr. 173]
 - no valid waiver found
People v. Easley (1988) 46 Cal.3d 712 [250 Cal.Rptr. 855]
- withdrawal
 - Aceves v. Superior Court (1996) 51 Cal.App.4th 584 [59 Cal.Rptr.2d 280]
 - Uhl v. Municipal Court (1974) 37 Cal.App.3d 526 [112 Cal.Rptr. 478]
- witness for prosecution former client of public defender's office
People v. Pennington (1991) 228 Cal.App.3d 959
- witness for prosecution former colleague and friend of defense counsel
CAL 1987-93
- Criminal prosecution
 - conflict occurs when prosecution calls as witness former co-defendant with whom defense attorney had an attorney-client relationship under a joint defense agreement
United States v. Henke (9th Cir. 2000) 222 F.3d 633
 - defendant entitled to counsel free of conflict
Lockhart v. Terhune (9th Cir. 2001) 250 F.3d 1223
U.S. v. Christakis (9th Cir. 2001) 238 F.3d 1164
People v. Jackson (1985) 167 Cal.App.3d 829 [213 Cal.Rptr. 521]
 - dual representation of co-defendants
 - by appointed counsel
Lockhart v. Terhune (9th Cir. 2001) 250 F.3d 1223
People v. Elston (1982) 130 Cal.App.3d 721 [182 Cal.Rptr. 30]
 - by private counsel
People v. Cook (1975) 13 Cal.3d 663, 670-673 [119 Cal.Rptr. 500, 532 P.2d 148]
People v. Amaya (1986) 180 Cal.App.3d 1 [225 Cal.Rptr. 313]
 - program where volunteer attorneys staff prosecutor's office on part-time basis
LA 377 (1978)
 - active representation of conflicting interests deprives defendant of effective assistance of counsel
People v. Easley (1988) 46 Cal.3d 712 [250 Cal.Rptr. 855]
 - representation of criminal defendant by member of firm acting as city prosecutor
LA 453
 - representation of one co-defendant by public defender and representation of other co-defendant by alternate public defender
People v. Christian (1996) 41 Cal.App.4th 986 [48 Cal.Rptr.2d 867]
CAL 2002-158
- waiver of
 - by defendant
 - denied if showing of a serious potential conflict
Wheat v. U.S. (1988) 486 U.S. 153 [108 S.Ct. 1692]
People v. Peoples (1997) 51 Cal.App.4th 1592 [60 Cal.Rptr.2d 173]
- Dating/Social Relationships
 - 34 Santa Clara L. Rev. 1157 (1994)
 - criminal defense lawyer dating prosecutor at time of trial
People v. Jackson (1985) 167 Cal.App.3d 829 [213 Cal.Rptr. 521]
 - married to bailiff
CAL 1987-93

CONFLICT OF INTEREST

plaintiff attorney dating secretary of law firm representing defendant

Gregori v. Bank of America (1989) 207 Cal.App.3d 291 [254 Cal.Rptr. 853]

social contacts and dating conflicts of interest
34 Santa Clara L. Rev. 1157 (1994)

Discharge of attorney

rights and obligations of client

Jeffry v. Pounds (1977) 67 Cal.App.3d 6, 9 [136 Cal.Rptr. 373]

Disclosure

People ex rel. Dept. of Corporations v. Speedee Oil Change Systems (1999) 20 Cal.4th 1135 [86 Cal.Rptr.2d 816]

confidences of the client, basis for disqualification

Panduit Corp. v. All States Plastic Mfg. Co., Inc. (7th Cir. 1984) 744 F.2d 1564, 1577-1578

disqualification denied where full disclosure of reasonably foreseeable adverse effects in testifying

McPhearson v. Michaels Company (2002) 96 Cal.App.4th 843 [117 Cal.Rptr.2d 489]

disqualification proper remedy for failure to disclose reasonably foreseeable adverse effects

Gilbert v. National Corporation for Housing Partnerships (1999) 71 Cal.App.4th 1240 [84 Cal.Rptr. 204]

of attorney's interest

-in proceedings involving minors or incompetents

California Rules of Court, Rule 241(b), Rule 529(b)

requires full consent

People v. Easley (1988) 46 Cal.3d 712 [250 Cal.Rptr. 855]

McPhearson v. Michaels Company (2002) 96 Cal.App.4th 843 [117 Cal.Rptr.2d 489]

Lysick v. Walcom (1968) 258 Cal.App.2d 136 [65 Cal.Rptr. 406]

to buyer and seller where attorney is broker for both, but attorney to only one

LA 413 (1983)

to client

-arguments made by attorney on opposite sides of a controverted issue in different cases

CAL 1989-108

-attorney's relationship with courtroom personnel

CAL 1987-93

-former representation of adverse party

Allen v. Academic Games League (1993) 831 F.Supp. 785

LA 406 (1982)

-insurance cases

Novak v. Low, Ball & Lynch (1999) 77 Cal.App.4th 278 [91 Cal.Rptr.2d 453]

Lysick v. Walcom (1968) 258 Cal.App.2d 136 [65 Cal.Rptr. 406]

-witness is former colleague of attorney

CAL 1987-93

to court

-attorney's relationship with courtroom personnel

CAL 1987-93

-in child custody proceedings

--conflict between client and interests of child

CAL 1976-37

-in welfare proceeding

--conflict between child and state

CAL 1977-45

-inform of representation of related trust

Potter v. Moran (1966) 239 Cal.App.2d 873 [49 Cal.Rptr. 229]

to former client

LA 6 (1918)

Disqualification of counsel

absent an actual conflict between an opposing attorney's clients, a party should not be able to create one by merely filing a meritless cross-complaint

Federal Home Loan Mortgage Corporation v. La Conchita Ranch Company (1998) 68 Cal.App.4th 856 [80 Cal.Rptr.2d 634]

appeal

-disqualification order not appealable in the grand jury context

In re Grand Jury Investigation (9th Cir. 1999) 182 F.3d 668

-from pre-trial order denying motion to disqualify counsel for conflict of interest

--standard requires showing on appeal that order affected outcome of case

In re Sophia Rachel B. (1988) 203 Cal.App.3d 1436 [250 Cal.Rptr. 802]

arbitration

-panel's denial of a motion to disqualify lawyers for an alleged conflict of interest may not support party's subsequent assertion of claim preclusion of res judicata

Benasra v. Mitchell Silberberg & Knupp (2002) 96 Cal.App.4th 96 [116 Cal.Rptr.2d 644]

attorney-client relationship

-disqualification despite technicality of no attorney-client relationship

Allen v. Academic Games League of America (1993) 831 F.Supp. 785

-disqualification may not be available when an attorney-client relationship never existed between the party and the attorney sought to be disqualified

Strasbourg, Pearson, Tulcin, Wolff, Inc., et al. v. Wiz Technology (1999) 69 Cal.App.4th 1399 [82 Cal.Rptr.2d 326]

In re Lee G. (1991) 1 Cal.App.4th 17 [1 Cal.Rptr.2d 375]

In re Complex Asbestos Litigation (1991) 232 Cal.App.3d 572 [283 Cal.Rptr. 732]

attorney general – denied

Cornish v. Superior Court (1989) 209 Cal.App.3d 467 [257 Cal.Rptr. 383]

attorney's former joint representation of parties justified disqualification from representing one against the other

Western Continental Operating Co. v. Natural Gas Corp. (1989) 212 Cal.App.3d 752 [261 Cal.Rptr. 100]

based on incidental social contacts and completely unrelated business transaction

Cohn v. Rosenfeld (9th Cir. 1984) 733 F.2d 625, 631

based on receipt of confidential information from a non-client

Morrison Knudsen Corp. v. Hancock, Rothert & Bunshoft, LLP (1999) 69 Cal.App.4th 223 [81 Cal.Rptr. 2d 425]

burden on client

Allen v. Academic Games League of America (1993) 831 F.Supp. 785

William H. Raley Co. v. Superior Court (1983) 149 Cal.App.3d 1042, 1048 [197 Cal.Rptr. 232]

"case-by-case" approach must be used by trial courts

Metro-Goldwyn-Mayer v. Tracinda Corp. (1995) 36 Cal.App.4th 1832 [43 Cal.Rptr.2d 327]

In re Complex Asbestos Litigation (1991) 232 Cal.App.3d 572 [283 Cal.Rptr. 732]

city attorney

-criminal prosecution and defense of city arising out of same incident

People v. Municipal Court (Byars) (1978) 77 Cal.App.3d 294 [143 Cal.Rptr. 491]

city councilman as defense counsel in criminal action

*People v. Municipal Court (Wolfe) (1977) 69 Cal.App.3d 714, 716-720 [138 Cal.Rptr. 235]
CAL 1981-63

CONFLICT OF INTEREST

co-counsel

-case law does not support "double imputation" when lawyer is two steps removed from attorney who has confidential information about a client

Frazier v. Superior Court (Ames) (2002) 97 Cal.App.4th 23 [118 Cal.Rptr.2d 129]

-imputed knowledge to

Panduit Corp. v. All States Plastic Mfg. Co. (7th Cir. 1984) 744 F.2d 1564, 1578

In re Airport Car Rental Antitrust Litigation (N.D. Cal. 1979) 470 F.Supp. 495, 501

Frazier v. Superior Court (Ames) (2002) 97 Cal.App.4th 23 [118 Cal.Rptr.2d 129]

Chadwick v. Superior Court (1980) 106 Cal.App.3d 108 [164 Cal.Rptr. 864]

--to all in firm

LA 377 (1978)

confidential information delivered to opposing party's counsel

Cooke v. Superior Court (1978) 83 Cal.App.3d 582, 590-592 [147 Cal.Rptr. 915]

conflict occurs when prosecution calls as witness former co-defendant with whom defense attorney had an attorney-client relationship under a joint defense agreement

United States v. Henke (9th Cir. 2000) 222 F.3d 633

conflicting liabilities between insurers and insured

Industrial Indem. Co. v. Great American Insurance Co. (1977) 73 Cal.App.3d 529 [140 Cal.Rptr. 806]

concurrent representation of clients with adverse interests

State Farm Mutual Automobile Insurance Company v. Federal Insurance Company (1999) 72 Cal.App.4th 1422 [86 Cal.Rptr.2d 20]

consultation with an independent attorney regarding the client's case may prevent the consulted attorney from representing the party adverse to the client

SD 1996-1

county counsel not in conflict of interest when separate branches of the office represents potentially adverse interests

In re Lee G. (1991) 1 Cal.App.4th 17 [1 Cal.Rptr.2d 375]

criminal proceeding

CAL 1980-52, CAL 1979-49

Cumis counsel does not have attorney-client relationship with insurer for purpose of disqualification

San Gabriel Basin Water Quality Authority v. Aerojet-General Corp. (C.D. Cal. 2000) 105 F.Supp.2d 1095

Assurance Co. of America v. Haven (1995) 32 Cal.App.4th 78, 90 [39 Cal.Rptr.2d 25]

denied following attorney's waiver of interest in case

Bell v. 20th Century Insurance Co. (1989) 212 Cal.App.3d 194 [260 Cal.Rptr. 489]

denied when the persons who are personally interested in the conflict filed written declarations waiving the conflict

McPhearson v. Michaels Company (2002) 96 Cal.App.4th 843 [117 Cal.Rptr.2d 489]

discussion with party concerned fees only

Hicks v. Drew (1897) 117 Cal. 305, 307-308 [49 P. 189]

disqualification denied where former legal secretary of defendant became a client, not an employee of attorney for plaintiff

Neal v. Health Net, Inc. (2002) 100 Cal.App.4th 831 [123 Cal.Rptr.2d 202]

disqualification may not be available when an attorney-client relationship never existed between the party and the attorney sought to be disqualified

San Gabriel Basin Water Quality Authority v. Aerojet-General Corp. (C.D. Cal. 2000) 105 F.Supp.2d 1095

disqualification of attorney and attorney general denied where moving party had no reasonable expectation that confidential information shared with opposing party and party was advised and consented to disclosure

Cornish v. Superior Court (1989) 209 Cal.App.3d 467 [257 Cal.Rptr. 383]

disqualification of attorney not required where client never imparted confidential information to attorney – now representing adverse party in same matter

In re Marriage of Zimmerman (1993) 16 Cal.App.4th 556 [20 Cal.Rptr.2d 132]

disqualification of attorney not required where attorney never performed services for former client of attorney's former firm

San Gabriel Basin Water Quality Authority v. Aerojet-General Corp. (C.D. Cal. 2000) 105 F.Supp.2d 1095

Dieter v. Regents of the University of California (E.D. Cal. 1997) 963 F.Supp. 908

Adams v. Aerojet-General Corp. (2001) 86 Cal.App.4th 1324 [104 Cal.Rptr.2d 116]

disqualification of attorney not required where record does not create reasonable probability that confidential information was divulged – attorney dating opposing firm's secretary

Gregori v. Bank of America (1989) 207 Cal.App.3d 291 [254 Cal.Rptr. 853]

disqualification when the misconduct or status has a continuing effect on judicial proceedings

Cal Pak Delivery, Inc. v. United Parcel Service (1997) 52 Cal.App.4th 1 [60 Cal.Rptr.2d 207]

district attorney

Penal Code section 1424

-based on private party influence on the impartiality of the district attorney

People v. Parmar (2001) 86 Cal.App.4th 781 [104 Cal.Rptr.2d 31]

-common interest between prosecutor's office and agency that funded a nuisance abatement specialist position in prosecutor's office does not in itself create a conflict

People v. Parmar (2001) 86 Cal.App.4th 781 [104 Cal.Rptr.2d 31]

-conflict of interest requires a showing that the district attorney's discretionary decision-making has been placed within the influence and control of a private party with a particular interest in the prosecution of the defendant

Hambarian v. Superior Court (2002) 27 Cal.4th 826 [118 Cal.Rptr.2d 725]

People v. Eubanks (1996) 14 Cal.4th 580, 599 [59 Cal.Rptr.2d 200]

People v. Parmar (2001) 86 Cal.App.4th 781 [104 Cal.Rptr.2d 31]

-financial assistance to prosecutor's office did not disqualify district attorney

Hambarian v. Superior Court (2002) 27 Cal.4th 826 [118 Cal.Rptr.2d 725]

People v. Parmar (2001) 86 Cal.App.4th 781 [104 Cal.Rptr.2d 31]

-financial assistance to prosecutor's office disqualified district attorney

People v. Eubanks (1996) 14 Cal.4th 580 [59 Cal.Rptr.2d 200]

-prosecution of defendant for crimes not precluded by virtue of representation of defendant's child re ward of court status

People v. Superior Court (Martin) (1979) 98 Cal.App.3d 515, 520-522 [159 Cal.Rptr. 625]

-recusal denied when motion is solely based on public perception that prosecutor seeks death penalty to fulfill a campaign promise

People v. Neely (1999) 70 Cal.App.4th 767 [82 Cal.Rptr.2d 886]

-recusal of entire office

Hambarian v. Superior Court (2002) 27 Cal.4th 826 [118 Cal.Rptr.2d 725]

People v. Eubanks (1996) 14 Cal.4th 580 [59 Cal.Rptr.2d 200]

People v. Conner (1983) 34 Cal.3d 141

People v. Parmar (2001) 86 Cal.App.4th 781 [104 Cal.Rptr.2d 31]

People v. Merritt (1993) 19 Cal.App.4th 1573

Lewis v. Superior Court (1997) 53 Cal.App.4th 1277 [62 Cal.Rptr.2d 331]

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- recusal of entire office due to prior association with defense firm by assistant district attorney
People v. Lopez (1984) 155 Cal.App.3d 813, 821-822 [202 Cal.Rptr. 333]
*Younger v. Superior Court (1978) 77 Cal.App.3d 892, 894-897 [144 Cal.Rptr. 34]
- recusal of entire office due to prior representation of defendant by district attorney while in private practice
People v. Lepe (1985) 164 Cal.App.3d 685
- recusal of entire office unnecessary when defendant and victim exchange roles in concurrent cases
People v. Hernandez (1991) 231 Cal.App.3d 1376
- duty of loyalty requires
*GATX/Airlog Company v. Evergreen International Airlines, Inc. (1998) 8 F.Supp.2d 1182
- entire firm
In re S.S. Retail Stores Corp. (9th Cir. 2000) 216 F.3d 882 [36 Bankr.Ct.Dec. 79]
Bankruptcy of Mortgage & Realty Trust (1996) 195 B.R. 740
Allen v. Academic Games League of America (1993) 831 F.Supp. 785
Image Technical Services v. Eastman Kodak Co. (9th Cir. 1998) 136 F.3d 1354
Paul E. Iacono Structural Engineer, Inc. v. Humphrey (1983) 722 F.2d 435
Frazier v. Superior Court (Ames) (2002) 97 Cal.App.4th 23 [118 Cal.Rptr.2d 129]
Shadow Traffic Network v. Superior Court (1994) 24 Cal.App.4th 1067 [29 Cal.Rptr.2d 693]
Henriksen v. Great American Savings and Loan (1992) 11 Cal.App.4th 109 [14 Cal.Rptr.2d 184]
Higdon v. Superior Court (1991) 227 Cal.App.3d 1667 [278 Cal.Rptr. 588]
Klein v. Superior Court (1988) 198 Cal.App.3d 894
Mills Land & Water Co. v. Golden West Refining (1986) 186 Cal.App.3d 116 [230 Cal.Rptr. 580]
William H. Raley Co. v. Superior Court (1983) 149 Cal.App.3d 1042, 1049 [197 Cal.Rptr. 232]
 CAL 1998-152, LA 501 (1999)
- disqualification of attorney from representing debtor is not attributable to his firm under bankruptcy code
In re S.S. Retail Stores Corp. (9th Cir. 2000) 216 F.3d 882 [36 Bankr.Ct.Dec. 79]
- not required when attorney at law firm covered depositions for independent counsel
Frazier v. Superior Court (Ames) (2002) 97 Cal.App.4th 23 [118 Cal.Rptr.2d 129]
- not required when attorney, while at another firm, represented current firm's opposing party's insurer and effectively screened from involvement in the current litigation
San Gabriel Basin Water Quality Authority v. Aerojet-General Corp. (C.D. Cal. 2000) 105 F.Supp.2d 1095
- presumption of shared confidences rebutted by evidence of the timely and effective screening of the tainted attorney
County of Los Angeles v. United States District Court (Forsyth) (9th Cir. 2000) 223 F.3d 990
- failure to file notice of appeal and subsequent defense of that action
In re Fountain (1977) 74 Cal.App.3d 715, 719
- former clients, subject to confidential settlement, as witnesses in pending action
Gilbert v. National Corporation for Housing Partnerships (1999) 71 Cal.App.4th 1240 [84 Cal.Rptr. 204]
- former state-employed attorney in law firm employed by plaintiff to sue state
Chambers v. Superior Court (1981) 121 Cal.App.3d 893 [175 Cal.Rptr. 575]
- marital relationship insufficient to deprive party of choice of counsel
DCH Health Services Corp. v. Waite (2002) 95 Cal.App.4th 829 [115 Cal.Rptr.2d 847]
- mediator is generally not disqualified from litigating later cases against the same party
Barajas v. Oren Realty and Development Co. (1997) 57 Cal.App.4th 209 [67 Cal.Rptr.2d 62]
- mere exposure to confidences of an adversary does not, standing alone, warrant disqualification
San Gabriel Basin Water Quality Authority v. Aerojet-General Corp. (C.D. Cal. 2000) 105 F.Supp.2d 1095
Neal v. Health Net, Inc. (2002) 100 Cal.App.4th 831 [123 Cal.Rptr.2d 202]
- Strasbourg, Pearson, Tulcin, Wolff, Inc., et al. v. Wiz Technology (1999) 69 Cal.App.4th 1399 [82 Cal.Rptr.2d 326]
- Cooke v. Superior Court (1978) 83 Cal.App.3d 582, 590 [147 Cal.Rptr. 915]
- prior representation of opposing party's insurer
San Gabriel Basin Water Quality Authority v. Aerojet-General Corp. (C.D. Cal. 2000) 105 F.Supp.2d 1095
- not required
 -marital relationship or "appearance of impropriety" insufficient to deprive party of choice of counsel
DCH Health Services Corp. v. Waite (2002) 95 Cal.App.4th 829 [115 Cal.Rptr.2d 847]
- "of counsel" to defendant's firm becomes "of counsel" to plaintiff's firm
Atasi Corp. v. Seagate Technology (9th Cir. 1988) 847 F.2d 826
- non-lawyer employee "switches sides"
In re Complex Asbestos Litigation (1991) 232 Cal.App.3d 572 [283 Cal.Rptr. 732]
- not required when only "blue sky" work done by underwriter's counsel, no attorney-client relationship created
Strasbourg, Pearson, Tulcin, Wolff, Inc., et al. v. Wiz Technology (1999) 69 Cal.App.4th 1399 [82 Cal.Rptr.2d 326]
- prior relationship with opposing party
Image Technical Services v. Eastman Kodak Co. (9th Cir. 1998) 136 F.3d 1354
Allen v. Academic Games League of America (1993) 831 F.Supp. 785
Wutchurna Water Co. v. Bailey (1932) 216 Cal. 564, 574 [155 P.2d 505]
Western Continental Operating Co. v. Natural Gas Corp. (1989) 212 Cal.App.3d 752 [261 Cal.Rptr. 100]
- prior representation of co-defendant
In re Charles L. (1976) 63 Cal.App.3d 760, 763 [132 Cal.Rptr. 840]
- in related matter
Yorn v. Superior Court (1979) 90 Cal.App.3d 669 [153 Cal.Rptr. 295]
- prior representation of opposing party
Bankruptcy of Mortgage & Realty Trust (1996) 195 B.R. 740
Image Technical Services v. Eastman Kodak Co. (9th Cir. 1998) 136 F.3d 1354
Damron v. Herzog, Jr. (9th Cir. 1995) 67 F.3d 211
City National Bank v. Adams (2002) 96 Cal.App.4th 315 [117 Cal.Rptr.2d 125]
Metro-Goldwyn-Mayer, Inc. v. Tracinda Corp. (1995) 36 Cal.App.4th 1832 [43 Cal.Rptr.2d 327]
Flatt v. Superior Court (1994) 9 Cal.4th 275 [36 Cal.Rptr.2d 537]
Elan Transdermal Limited v. Cygnus Therapeutic Systems (N.D. Cal. 1992) 809 F.Supp. 1383
In re Marriage of Zimmerman (1993) 16 Cal.App.4th 556 [20 Cal.Rptr.2d 132]
Trone v. Smith (9th Cir. 1980) 621 F.2d 994
In re Airport Car Rental Antitrust Litigation (N.D. Cal. 1979) 470 F. Supp. 495, 499
Rosenfeld Construction Co., Inc. v. Superior Court (1991) 235 Cal.App.3d 566
Dill v. Superior Court (1984) 158 Cal.App.3d 301 [205 Cal.Rptr. 671]
Global Van Lines v. Superior Court (1983) 144 Cal.App.3d 483 [192 Cal.Rptr. 609]

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- Jacuzzi v. Jacuzzi Bros. (1963) 218 Cal.App.2d 24, 27-30 [32 Cal.Rptr. 188]
In the Matter of Lane (Review Dept. 1994) 2 Cal. State Bar Ct. Rptr. 735
 CAL 1998-152, CAL 1993-133, LA 501 (1999)
 -associate switches sides
Dill v. Superior Court (1984) 158 Cal.App.3d 301 [205 Cal.Rptr. 671]
 LA 363 (1976)
 -in matter relating to same transaction
Cord v. Smith (9th Cir. 1964) 338 F.2d 516
City National Bank v. Adams (2002) 96 Cal.App.4th 315 [117 Cal.Rptr.2d 125]
In re Marriage of Zimmerman (1993) 16 Cal.App.4th 556 [20 Cal.Rptr.2d 132]
Johnson v. Superior Court (1984) 159 Cal.App.3d 573, 577-578 [205 Cal.Rptr. 605]
 -representation of attorney/client against former attorney/client
 LA 418 (1983), SD 1984-1
 -substantial relationship to current matter not found
H.F. Ahmanson & Co. v. Salomon Brothers, Inc. (1991) 229 Cal.App.3d 1445 [280 Cal.Rptr. 614]
 raised on appeal from the final judgment
In re Sophia Rachel B. (1988) 203 Cal.App.3d 1436 [250 Cal.Rptr. 802]
 related matter, substantial relationship
Panduit Corp. v. All States Plastic Mfg. Co., Inc. (7th Cir. 1984) 744 F.2d 1564, 1576
City National Bank v. Adams (2002) 96 Cal.App.4th 315 [117 Cal.Rptr.2d 125]
Adams v. Aerojet-General Corp. (2001) 86 Cal.App.4th 1324 [104 Cal.Rptr.2d 116]
Morrison Knudsen Corp. v. Hancock, Rothert & Bunshoft, LLP (1999) 69 Cal.App.4th 223 [81 Cal.Rptr.2d 425]
Global Van Lines v. Superior Court (1983) 144 Cal.App.3d 483 [192 Cal.Rptr. 609]
 -vicarious disqualification of a firm not required because of the timely and effective screening of the tainted attorney
County of Los Angeles v. United States District Court (Forsyth) (9th Cir. 2000) 223 F.3d 990
 res judicata and collateral estoppel, effect of
Benasra v. Mitchell Silberberg & Knupp (2002) 96 Cal.App.4th 96 [116 Cal.Rptr.2d 644]
 timeliness of motion to disqualify
Employers Insurance of Wausau v. Seeno (N.D. Cal. 1988) 692 F. Supp. 1150
State Farm Mutual Automobile Insurance Company v. Federal Insurance Company (1999) 72 Cal.App.4th 1422 [86 Cal.Rptr.2d 20]
Forrest v. Baeza (1997) 58 Cal.App.4th 65 [67 Cal.Rptr.2d 857]
River West, Inc. v. Nickel, Jr. (1987) 188 Cal.App.3d 1297 [234 Cal.Rptr. 33]
Earl Scheib, Inc. v. Superior Court (1967) 253 Cal.App.2d 703, 707-710 [61 Cal.Rptr. 386]
 trial court must determine if there is a substantial relationship between the prior and current representation based on facts, legal issues, and the nature and extent of the attorney's involvement
Frazier v. Superior Court (Ames) (2002) 97 Cal.App.4th 23 [118 Cal.Rptr.2d 129]
Adams v. Aerojet-General Corp. (2001) 86 Cal.App.4th 1324 [104 Cal.Rptr.2d 116]
Cal Pak Delivery, Inc. v. United Parcel Service (1997) 52 Cal.App.4th 1 [60 Cal.Rptr.2d 207]
In re Marriage of Zimmerman (1993) 16 Cal.App.4th 556 [20 Cal.Rptr.2d 132]
Rosenfeld Construction Co., Inc. v. Superior Court (1991) 235 Cal.App.3d 566
 trial court's power
William H. Raley Co. v. Superior Court (1983) 149 Cal.App.3d 1042, 1048 [197 Cal.Rptr. 232]
 unrelated matter
Flatt v. Superior Court (1994) 9 Cal.4th 275 [36 Cal.Rptr.2d 537]
American Airlines v. Sheppard Mullin, Richter & Hampton (2002) 96 Cal.App.4th 1017 [117 Cal.Rptr.2d 685]
State Farm Mutual Automobile Insurance Company v. Federal Insurance Company (1999) 72 Cal.App.4th 1422 [86 Cal.Rptr.2d 20]
Truck Insurance Exchange v. Fireman's Fund Insurance Co. (1992) 6 Cal.App.4th 1050 [8 Cal.Rptr.2d 228]
Cohn v. Rosenfeld (9th Cir. 1984) 733 F.2d 625
Jeffry v. Pounds (1977) 67 Cal.App.3d 6, 11
 vicarious disqualification of a firm not required because of the timely and effective screening of the tainted attorney
County of Los Angeles v. United States District Court (Forsyth) (9th Cir. 2000) 223 F.3d 990
 vicarious disqualification required despite screening measures when attorney switches sides and the attorney is not a former government attorney moving to private practice
Henriksen v. Great American Savings and Loan (1992) 11 Cal.App.4th 109 [14 Cal.Rptr.2d 184]
 vicarious disqualification where "of counsel" attorney and law firm represented opposing parties and where "of counsel" attorney obtained confidential information and provided legal services to client
People ex rel. Dept. of Corporations v. Speedee Oil Change Systems (1999) 20 Cal.4th 1135 [86 Cal.Rptr.2d 816]
 withdrawal from representation of one client in the course of concurrent representation of adverse clients in separate matters may not avoid disqualification sought by the ousted client
American Airlines v. Sheppard Mullin, Richter & Hampton (2002) 96 Cal.App.4th 1017 [117 Cal.Rptr.2d 685]
Metro-Goldwyn-Mayer, Inc. v. Tracinda Corp. (1995) 36 Cal.App.4th 1832 [43 Cal.Rptr.2d 327]
Stanley v. Richmond (1995) 35 Cal.App.4th 1070 [41 Cal.Rptr.2d 768]
Buehler v. Sbardellati (1995) 34 Cal.App.4th 1527 [41 Cal.Rptr.2d 104]
Flatt v. Superior Court (1994) 9 Cal.4th 275 [36 Cal.Rptr.2d 537]
Truck Insurance Exchange v. Fireman's Fund Insurance Co. (1992) 6 Cal.App.4th 1050 [8 Cal.Rptr.2d 228]
 District attorney
 common interest between prosecutor's office and agency that funded a nuisance abatement specialist position in prosecutor's office does not in itself create a conflict
People v. Parmar (2001) 86 Cal.App.4th 781 [104 Cal.Rptr.2d 31]
 conflict of interest requires a showing that the district attorney's discretionary decision making has been placed within the influence and control of a private party with a particular interest in the prosecution of the defendant
Hambarian v. Superior Court (2002) 27 Cal.4th 826 [118 Cal.Rptr.2d 725]
People v. Eubanks (1996) 14 Cal.4th 580, 599 [59 Cal.Rptr.2d 200]
People v. Parmar (2001) 86 Cal.App.4th 781 [104 Cal.Rptr.2d 31]
 former
 -represents
 --in criminal matters
 Business and Professions Code section 6131
 LA(l) 1958-9
 former attorney now district attorney and issue based on same facts as prior proceeding
People v. Johnson (1980) 105 Cal.App.3d 884 [164 Cal.Rptr. 746]
 formerly employed as private counsel for co-defendant

CONFLICT OF INTEREST

- In re Charles L. (1976) 63 Cal.App.3d 760, 765 [132 Cal.Rptr. 840]
 formerly represented defendant as private counsel
People v. Lepe (1985) 164 Cal.App.3d 685 [211 Cal.Rptr. 432]
 married to bailiff
 CAL 1987-93
 personal animosity of district attorney towards co-defendant
 *People v. Battin (1978) 77 Cal.App.3d 635, 670-672 [143 Cal.Rptr. 731]
 police officer assigned to the district attorney's office related to informant
People v. McPartland (1988) 243 Cal.Rptr. 752
 proceedings to have child of defendant in criminal case declared ward of court
People v. Superior Court (Martin) (1979) 98 Cal.App.3d 515 [159 Cal.Rptr. 625]
 recusal of entire office
 Penal Code section 1424
Hambarian v. Superior Court (2002) 27 Cal.4th 826 [118 Cal.Rptr.2d 725]
People v. Eubanks (1996) 14 Cal.4th 580 [59 Cal.Rptr.2d 200]
People v. Conner (1983) 34 Cal.3d 141
People v. Parmar (2001) 86 Cal.App.4th 781 [104 Cal.Rptr.2d 31]
People v. Choi (2000) 80 Cal.App.4th 476 [94 Cal.Rptr.2d 922]
Lewis v. Superior Court (1997) 53 Cal.App.4th 1277 [62 Cal.Rptr.2d 331]
People v. Merritt (1993) 19 Cal.App.4th 1573 [24 Cal.Rptr.2d 177]
People v. Lopez (1984) 155 Cal.App.3d 813 [202 Cal.Rptr. 333]
 *Younger v. Superior Court (1978) 77 Cal.App.3d 892 [144 Cal.Rptr. 34]
 -based on private party influence on the impartiality of the district attorney
People v. Parmar (2001) 86 Cal.App.4th 781 [104 Cal.Rptr.2d 31]
 -improper absent evidence that prosecutor would employ discretionary powers to deprive defendant of fair trial
People v. McPartland (1988) 243 Cal.Rptr. 752
 -not necessary when defendant and victim exchange roles in concurrent cases
People v. Hernandez (1991) 231 Cal.App.3d 1376
 relative of crime victim employed in district attorney's office
 *People v. Superior Court (Greer) (1977) 19 Cal.3d 255 [137 Cal.Rptr. 476, 561 P.2d 1164]
 representation of county and private citizen
Dettamanti v. Lompoc Union School District (1956) 143 Cal.App.2d 715 [300 P.2d 78]
 representation of county by district attorney at welfare hearing permitted even if county has a county counsel
Rauber v. Herman (1991) 229 Cal.App.3d 942 [280 Cal.Rptr. 785]
 representation of criminal defendant by member of firm acting as city prosecutor
 LA 453
 retired district attorney wishing to associate with law firm holding county contract to act as public defender
 62 Ops. Cal. Atty. Gen. 546 (10/5/79; No. 79-622)
 CAL 1977-45
- Divorce
 community property, contingent fee
 CAL 1983-72
 post-nuptial agreement enforceable despite law firm's dual representation of husband and wife on estate plan
In re Marriage of Friedman (2002) 100 Cal.App.4th 65 [122 Cal.Rptr.2d 412]
 represent
 -both parties
In re Marriage of Egedi (2001) 88 Cal.App.4th 17 [105 Cal.Rptr.2d 518]
Klemm v. Superior Court (1977) 75 Cal.App.3d 893 [142 Cal.Rptr. 509]
- Ishmael v. Millington (1966) 241 Cal.App.2d 520 [50 Cal.Rptr. 592]
 --after consulting with other about divorce
 SD 1975-1
 --client's spouse in
 LA 207 (1953), LA 192 (1952)
 --former client's spouse in
 LA(l) 1971-8
 --later other in related action
 LA 231 (1955)
 --one party
 ---after acting for marital union
 LA(l) 1958-5, LA(l) 1947-1
 ---after consulting with both about divorce
 LA(l) 1947-1
 --party in and receiver
 LA 51 (1927)
 --settlement
 SD 1984-2
 --successive wives of same husband
 LA(l) 1963-6
 -prior representation of family corporation
Woods v. Superior Court (1983) 149 Cal.App.3d 931, 935 [197 Cal.Rptr. 185]
 -prior representation of other spouse
 SD 1984-2
 violation of rule 3-310 of the Rules of Professional Conduct may render a post-nuptial agreement unenforceable
In re Marriage of Friedman (2002) 100 Cal.App.4th 65 [122 Cal.Rptr.2d 412]
 Draft, military, member of selective service appeal board represents appellants before other boards
 LA(l) 1969-8
 Dual capacity
 attorney acting as Federal Rule 30(b)(6) spokesperson
American Airlines v. Sheppard Mullin, Richter & Hampton (2002) 96 Cal.App.4th 1017 [117 Cal.Rptr.2d 685]
 lobbyist and legal counsel for a state agency may be permissible
 78 Ops. Cal. Atty. Gen. 322 (11/8/95; No. 95-616)
- Dual professions
 CAL 1982-69
 LA 446 (1987), LA 413 (1983), LA 384 (1980)
 SD 1992-1
 85 Ops. Cal. Atty. Gen. 115 (6/7/02; No. 01-1107)
- Dual representation
 absence of litigation or contemplated litigation
Lessing v. Gibbons (1935) 6 Cal.App.2d 598, 605-606 [45 P.2d 258]
 attorney general may represent board where another state agency in the underlying proceeding retains separate counsel to avoid prohibited dual representation conflict
State Water Resources Control Bd. v. Superior Court (2002) 97 Cal.App.4th 907 [118 Cal.Rptr.2d 784]
 co-defendants in criminal case
Lockhart v. Terhune (9th Cir. 2001) 250 F.3d 1223
People v. Cook (1975) 13 Cal.3d 663, 670-673 [119 Cal.Rptr. 500, 532 P.2d 148]
People v. Amaya (1986) 180 Cal.App.3d 1 [225 Cal.Rptr. 313]
People v. Elston (1982) 130 Cal.App.3d 721 [182 Cal.Rptr. 30]
 attorney acts as both advocate and advisor to decision maker
Howitt v. Superior Court of Imperial County (1992) 3 Cal.App.4th 1575
 buyer and seller in real estate transaction
 CAL 1982-69
 LA 413 (1983), LA 384 (1980)
 SF 1973-22

CONFLICT OF INTEREST

by counsel

Novak v. Low, Ball & Lynch (1999) 77 Cal.App.4th 278 [91 Cal.Rptr.2d 453]
San Diego Navy Federal Credit Union v. Cumis Insurance Society (1984) 162 Cal.App.3d 358 [208 Cal.Rptr. 494]

clients each demand the original file
 LA 493 (1998)

concurrent representation of adverse parties in separate matters is not cured by ending relationship with previous client

*GATX/Airlog Company v. Evergreen International Airlines, Inc. (1998) 8 F.Supp.2d 1182

American Airlines v. Sheppard Mullin, Richter & Hampton (2002) 96 Cal.App.4th 1017 [117 Cal.Rptr.2d 685]

Buehler v. Sbardellati (1995) 34 Cal.App.4th 1527 [41 Cal.Rptr.2d 104]

Flatt v. Superior Court (1994) 9 Cal.4th 275 [36 Cal.Rptr.2d 537]

Santa Clara County Counsel Attorneys Assn. v. Woodside (1994) 7 Cal.4th 525

Truck Insurance Exchange v. Fireman's Fund Insurance Co. (1992) 6 Cal.App.4th 1050 [8 Cal.Rptr.2d 228]

consent to potential conflict

In re Marriage of Friedman (2002) 100 Cal.App.4th 65 [122 Cal.Rptr.2d 412]

In re Marriage of Egedi (2001) 88 Cal.App.4th 17 [105 Cal.Rptr.2d 518]

corporation and board of directors in derivative suit
 LA 397 (1982)

corporation and director of corporation as co-defendants
 CAL 1999-153, LA 471 (1992)

corporation and directors

Forrest v. Baeza (1997) 58 Cal.App.4th 65 [67 Cal.Rptr.2d 857]

corporation and officers

Pringle v. La Chappelle (1999) 73 Cal.App.4th 1000 [87 Cal.Rptr.2d 90]

CAL 1999-153

franchisee law firms of franchisor group representing multiple clients

LA 471 (1992), LA 423 (1983)

insurance company

-and insured

Gafcon, Inc. v. Ponsor & Associates (2002) 98 Cal.App.4th 1388 [120 Cal.Rptr.2d 392]

Gulf Insurance Co. v. Berger, Kahn et al. (2000) 79 Cal.App.4th 114 [93 Cal.Rptr.2d 534]

Novak v. Low, Ball & Lynch (1999) 77 Cal.App.4th 278, 91 Cal.Rptr.2d 453

State Farm Mutual Automobile Insurance Company v. Federal Insurance Company (1999) 72 Cal.App.4th 1422 [86 Cal.Rptr.2d 20]

Unigard Ins. Group v. O'Flaherty & Belgium (1997) 38 Cal.App.4th 1229

Betts v. Allstate Ins. Co. (1984) 154 Cal.App.3d 688 [201 Cal.Rptr. 528]

Lysick v. Walcom (1968) 258 Cal.App.2d 136, 146 [65 Cal.Rptr. 406]

LA 424 (1984), LA 352 (1976)

-and party adverse to insurer

Anderson v. Eaton (1930) 211 Cal. 113 [293 P. 788]

State Farm Mutual Automobile Insurance Company v. Federal Insurance Company (1999) 72 Cal.App.4th 1422 [86 Cal.Rptr.2d 20]

CAL 1975-35, CAL 1970-22

LA 397 (1982)

--Cumis counsel does not have attorney-client relationship with insurer for purposes of disqualification

San Gabriel Basin Water Quality Authority v. Aerojet-General Corp. (C.D. Cal. 2000) 105 F.Supp.2d 1095

Assurance Co. of America v. Haven (1995) 32 Cal.App.4th 78, 90 [38 Cal.Rptr.2d 25]

joint defense agreement establishes an implied attorney-client relationship with the co-defendant

United States v. Henke (9th Cir. 2000) 222 F.3d 633

living trust marketer and participant

CAL 1997-148

minor and guardian

CAL 1988-96

mortgagee and mortgagor

Federal Home Loan Mortgage Corporation v. La Conchita Ranch Company (1998) 68 Cal.App.4th 856 [80 Cal.Rptr.2d 634]

of general and limited partners in partnership

Buehler v. Sbardellati (1995) 34 Cal.App.4th 1527 [41 Cal.Rptr.2d 104]

*Ronson v. Superior Court (1994) 24 Cal.App.4th 94 [29 Cal.Rptr.2d 268]

Johnson v. Haberman & Kassoy (1988) 201 Cal.App.3d 1468 [247 Cal.Rptr. 614]

of potential conflicting interests

LA 471 (1992), LA 427 (1984)

preparing answer for in propria persona defendant while representing plaintiff on same matter

LA 432 (1984)

separate counsel must be appointed when actual conflict exists among minor clients or when there is a reasonable probability that a potential conflict will become actual

Carroll v. Superior Court (2002) 101 Cal.App.4th 1423 [124 Cal.Rptr.2d 891]

Duty of loyalty

Lockhart v. Terhune (9th Cir. 2001) 250 F.3d 1223

*GATX/Airlog Company v. Evergreen International Airlines, Inc. (1998) 8 F.Supp.2d 1182

American Airlines v. Sheppard Mullin, Richter & Hampton (2002) 96 Cal.App.4th 1017 [117 Cal.Rptr.2d 685]

McPhearson v. Michaels Company (2002) 96 Cal.App.4th 843 [117 Cal.Rptr.2d 489]

State Farm Mutual Automobile Insurance Company v. Federal Insurance Company (1999) 72 Cal.App.4th 1422 [86 Cal.Rptr.2d 20]

Gilbert v. National Corporation for Housing Partnerships (1999) 71 Cal.App.4th 1240 [84 Cal.Rptr. 204]

Brooklyn Navy Yard Cogeneration Partners v. Superior Court (1997) 60 Cal.App.4th 248 [70 Cal.Rptr.2d 419]

Forrest v. Baeza (1997) 58 Cal.App.4th 65 [67 Cal.Rptr.2d 857]

Metro-Goldwyn-Mayer v. Tracinda Corp. (1995) 36 Cal.App.4th 1832, 1839

Flatt v. Superior Court (1994) 9 Cal.4th 275, 284 [36 Cal.Rptr.2d 537]

Truck Insurance Exchange v. Fireman's Fund Insurance Co. (1992) 6 Cal.App.4th 1050, 1055 [8 Cal.Rptr.2d 228]

Jeffrey v. Pounds (1977) 67 Cal.App.3d 611

ineffectiveness claim based on divided loyalty in criminal matter does not require showing of prejudice as a result of defense counsel's actual conflict

U.S. v. Christakis (9th Cir. 2001) 238 F.3d 1164

LA 506

no fiduciary duty owed to co-counsel, where no collateral duties may interfere with duty of undivided loyalty and total devotion to client's best interest

Beck v. Wecht (2002) 28 Cal.4th 289 [121 Cal.Rptr.2d 384]

self-interest of attorney does not interfere with duty to client where attorney seeks indemnification from co-counsel in malpractice action

Musser v. Provencher (2002) 28 Cal.4th 274 [121 Cal.Rptr.2d 373]

Duty to both insured and insurer

Gafcon, Inc. v. Ponsor & Associates (2002) 98 Cal.App.4th 1388 [120 Cal.Rptr.2d 392]

Gulf Insurance Co. v. Berger, Kahn et al. (2000) 79 Cal.App.4th 114 [93 Cal.Rptr.2d 534]

State Farm Mutual Automobile Insurance Company v. Federal Insurance Company (1999) 72 Cal.App.4th 1422 [86 Cal.Rptr.2d 20]

McGee v. Superior Court (1985) 176 Cal.App.3d 221 [221 Cal.Rptr. 421]

San Diego Navy Federal Credit Union v. Cumis Insurance Society (1984) 162 Cal.App.3d 358 [208 Cal.Rptr. 494]

CONFLICT OF INTEREST

- Cumis counsel does not have attorney-client relationship with insurer for purposes of disqualification
 - San Gabriel Basin Water Quality Authority v. Aerojet-General Corp. (C.D. Cal. 2000) 105 F.Supp.2d 1095
 - Assurance Co. of America v. Haven (1995) 32 Cal.App.4th 78, 90 [38 Cal.Rptr.2d 25]
- extends to uninsured courtesy defense client
 - Mosier v. Southern California Physicians Insurance Exchange (1998) 63 Cal.App.4th 1022 [74 Cal.Rptr.2d 550]
 - LA 439 (1986), LA 427 (1984), LA 424 (1984), LA 395 (1982), LA 344 (1974)
- Duty to client
 - Ishmael v. Millington (1966) 241 Cal.App.2d 520 [50 Cal.Rptr. 592]
 - Hammett v. McIntyre (1952) 114 Cal.App.2d 148 [249 P.2d 885]
 - conflicting claims of two clients
 - McClure v. Donovan (1947) 82 Cal.App.2d 664, 666 [186 P.2d 718]
- Duty to disclose attorney acting as trustee for client
 - duty to disclose self-involvement in trust
 - Lyders v. State Bar (1938) 12 Cal.2d 261, 264-265 [83 P. 500]
 - discovery of conflicting duties to multiple clients
 - Hammett v. McIntyre (1952) 114 Cal.App.2d 148 [249 P.2d 885]
 - CAL 1970-22, CAL 1975-35
 - prior representation of opposing party in unrelated matter
 - Flatt v. Superior Court (1994) 9 Cal.4th 275 [36 Cal.Rptr.2d 537]
 - Jeffry v. Pounds (1977) 67 Cal.App.3d 6, 10 [136 Cal.Rptr. 373]
 - to both clients in multiple representation
 - LA 471 (1992), LA 427 (1984), LA 395 (1982), LA 344 (1974)
- Duty to withdraw
 - Vangsness v. Superior Court (1984) 159 Cal.App.3d 1087, 1090 [206 Cal.Rptr. 45]
 - timeliness
 - Yorn v. Superior Court (1979) 90 Cal.App.3d 669, 676 [153 Cal.Rptr. 295]
 - Pennix v. Winton (1943) 61 Cal.App.2d 761, 773-775 [145 P.2d 561]
 - CAL 1980-52, CAL 1979-49, LA 395 (1982)
- Effect of mere prior professional relationship
 - Allen v. Academic Games League of America (1993) 831 F.Supp. 785
 - Johnson v. Superior Court (1984) 159 Cal.App.3d 573, 577-578 [205 Cal.Rptr. 605]
- Effect of time lapse
 - Johnson v. Superior Court (1984) 159 Cal.App.3d 573, 577-578 [205 Cal.Rptr. 605]
- Escrow
 - agent
 - represents
 - against grantor
 - LA 266 (1959)
 - one party in dispute over escrow between parties
 - LA(l) 1955-6
- Estate(s)
 - attorney as beneficiary of trust
 - Bank of America v. Angel View Crippled Children's Foundation (1998) 72 Cal.App.4th 451 [85 Cal.Rptr.2d 117]
 - attorney for
 - buys estate property
 - LA 238 (1956)
 - charges personal representative personally for services performed
 - CAL 1993-130, LA 347 (1975)
- claimant in bankruptcy proceeding, then later purchases property in foreclosure sale held by claimant
 - LA 455
- personal representative and real estate broker
 - SD 1992-1
- removal of beneficiary's request/demand
 - Estate of Effron (1981) 117 Cal.App.3d 915, 928-930 [173 Cal.Rptr. 93]
- represents
 - administrator
 - as contestant in probate
 - LA 193 (1952)
 - as real estate broker for the sale of estate property
 - LA 470 (1992)
 - as such and as heir
 - CAL 1976-41, LA 237 (1956), LA 193 (1952), LA 44 (1943), LA(l) 1967-6
 - takes assignment of administrator's interest in estate to secure loan
 - LA 228 (1955)
 - deceased attorney's client
 - Estate of Linnick (1985) 171 Cal.App.3d 752, 758 [217 Cal.Rptr. 552]
 - plaintiffs in wrongful death action against estate
 - LA 341 (1973)
 - attorney representing both heir hunter and estate beneficiary has insurmountable conflict
 - Estate of Wright (2001) 90 Cal.App.4th 228 [108 Cal.Rptr.2d 572]
 - estate executor
 - attorney for
 - beneficiary under will
 - Probate Code section 21350 et seq.
 - LA 219 (1954)
 - commission for sale of estate property
 - LA 317 (1970)
 - duty to executor and beneficiaries
 - Estate of Effron (1981) 117 Cal.App.3d 915 [173 Cal.Rptr. 93]
 - fees from executor and statutory fees
 - CAL 1993-130
 - finders fee from purchaser of estate property
 - LA 317
 - offers to prepare claims for creditors of state for fee
 - LA(l) 1961-6
 - own partnership
 - LA 219 (1954)
 - referral fee from broker listing estate property
 - SD 1989-2
 - represents
 - person in determination of heirship
 - LA(l) 1965-8
 - reopened estate against
 - LA 269 (1960)
 - beneficiary as
 - LA 219 (1954)
 - beneficiaries in contest over heirship
 - LA(l) 1958-2
 - law firm's dual representation of husband and wife in estate plan did not create a conflict of interest that voided post-nuptial agreement, in which law firm only represented husband
 - In re Marriage of Friedman (2002) 100 Cal.App.4th 65 [122 Cal.Rptr.2d 412]
 - partnership represents
 - member, trustee
 - LA 219 (1954)
 - trustee
 - beneficiary as
 - LA 219 (1954)
 - violation of rule 3-310 of the Rules of Professional Conduct may render a post-nuptial agreement unenforceable
 - In re Marriage of Friedman (2002) 100 Cal.App.4th 65 [122 Cal.Rptr.2d 412]

CONFLICT OF INTEREST

False arrest cases on retainer for police officers/represent clients who might raise issue of false arrest

SD 1972-2

Fee

apportioning fees where conflict between insurer and insured
LA 424

attorney engaged in conflicting representation without obtaining informed written consent not entitled to recover fees

Image Technical Services v. Eastman Kodak Co. (9th Cir. 1998) 136 F.3d 1354

Cal Pak Delivery, Inc. v. United Parcel Service (1997) 52 Cal.App.4th 1 [60 Cal.Rptr.2d 207]

Asbestos Claims Facility v. Berry & Berry (1990) 219 Cal.App.3d 9, 26-27

Jeffry v. Pounds (1977) 67 Cal.App.3d 6, 11

Goldstein v. Lees (1975) 46 Cal.App.3d 614

conflict of interest

In re Rindlisbacher (9th Cir. BAP 1998) 225 B.R. 180 [33 Bankr.Ct.Dec. 258, 2 Cal.Bankr.Ct.Rep. 43]

United States ex rel. Alnoor Virani v. Jerry M. Truck Parts & Equipment, Inc. (9th Cir. 1996) 89 F.3d 574

Pringle v. La Chappelle (1999) 73 Cal.App.4th 1000 [87 Cal.Rptr.2d 90]

Asbestos Claims Facility v. Berry & Berry (1990) 219 Cal.App.3d 9, 26-27 [267 Cal.Rptr. 896, 906-907]

Jeffry v. Pounds (1977) 67 Cal.App.3d 6, 12 [136 Cal.Rptr. 373, 377]

Goldstein v. Lees (1975) 46 Cal.App.3d 614, 617-618 [120 Cal.Rptr. 253, 254-255]

Conservatorship of Chilton (1970) 8 Cal.App.3d 34, 43 [86 Cal.Rptr. 860, 866]

defense of city employees pursuant to Gov. Code § 995 et seq.

-city is not obligated to provide for defense of employees separate from that retained to jointly represent the city and the employees

City of Huntington Beach v. Peterson Law Firm (2002) 95 Cal.App.4th 562 [115 Cal.Rptr.2d 568]

government

-city is not obligated to provide for defense of employees separate from that retained to jointly represent the city and the employees

City of Huntington Beach v. Peterson Law Firm (2002) 95 Cal.App.4th 562 [115 Cal.Rptr.2d 568]

paid by third party

Shaffer v. Superior Court (1995) 33 Cal.App.4th 993 [39 Cal.Rptr. 2d 506]

CAL 1992-126, CAL 1975-35, LA 471 (1992), LA 439 (1986)

-by corporation to minority shareholder's attorney

Strolow v. Strolow, Inc. (9th Cir. 1987) 813 F.2d 997

-by insurer of client

Gafcon, Inc. v. Ponsor & Associates (2002) 98 Cal.App.4th 1388 [120 Cal.Rptr.2d 392]

LA 439 (1986), LA 352 (1976)

-estate attorney charging personal representative personally for services performed

LA 347 (1975)

-public agency attorney participation in a bonus program tied to savings by the agency

SD 1997-2

referral

-paid to an attorney by client in an unrelated matter

SD 1987-2

represent

-in settlement when fee paid out of settlement

SD 1975-4

-self and co-counsel re contingent fee

SD 1972-1

when in client's best interest to settle although no recovery of fees

Evans v. Jeff D. (1986) 475 U.S. 717 [106 S.Ct.1531]

Fiduciary duty

attorney as executor of estate

Probate Code section 10804

-substitution into litigation

Pepper v. Superior Court (1977) 76 Cal.App.3d 252, 259 [142 Cal.Rptr. 759]

attorney represents estates and deceased attorney's former client

Estate of Linnick (1985) 171 Cal.App.3d 752 [217 Cal.Rptr. 552]

breach of

-taking business clientele of a former client

David Welch Company v. Erskine and Tully (1988) 203 Cal.App.3d 884 [250 Cal.Rptr. 339]

can exist even absent express attorney-client relationship

Bankruptcy of Mortgage & Realty Trust (1996) 195 B.R. 740

Allen v. Academic Games League of America (1993) 831 F.Supp. 785

Morrison Knudsen Corp. v. Hancock, Rothert & Bunshoft, LLP (1999) 69 Cal.App.4th 223 [81 Cal.Rptr.2d 425]

William H. Raley Co. v. Superior Court (1983) 149 Cal.App.3d 1042, 1047 [197 Cal.Rptr. 232]

CAL 1993-132, CAL 1981-63

presumption of undue influence

Ball v. Posey (1986) 176 Cal.App.3d 1209 [222 Cal.Rptr. 746]

self-dealing of attorney/trustee

Lyders v. State Bar (1938) 12 Cal.2d 261, 264-265 [83 P.2d 500]

Financial advice

46 Ops. Cal. Atty. Gen. 74 (10/14/65; No. 64-65)

Financial interest

"noninterest" when city council, a member of which is a deputy county counsel, enters into contract for law enforcement services if interest is disclosed to city council and noted in official records and deputy county counsel-city council member may participate in the negotiations

85 Ops. Cal. Atty. Gen. 115 (6/7/02; No. 01-1107)

of lawyer

-in corporation

--about which the client desires legal advice
LA 57 (1928)

Foreclosure

represent

-plaintiff's purchase real property involved
LA 282 (1963)

Former client

Vangness v. Superior Court (1984) 159 Cal.App.3d 1087, 1090 [206 Cal.Rptr. 45]

acceptance of employment

-adverse to

Arm v. State Bar (1990) 50 Cal.3d 763, 769 [268 Cal.Rptr. 741, 789 P.2d 922]

--knowledge of former clients' property and property rights involved in action

LA 31 (1925)

adverse interest to

-in litigation

LA 30 (1925)

co-defendant in present criminal proceeding

-disqualification

Yorn v. Superior Court (1979) 90 Cal.App.3d 669 [153 Cal.Rptr. 295]

estate plan for husband and wife, and subsequent agreement for husband

LA 448 (1987)

insurer of current opposing party

San Gabriel Basin Water Quality Authority v. Aerojet-General Corp. (C.D. Cal. 2000) 105 F.Supp.2d 1095

prior representation of murder victim by defense attorney

Mickens v. Taylor (2002) 535 U.S. 1074 [122 S.Ct. 1237]

taking business clientele from

David Welch Company v. Erskine and Tully (1988) 203 Cal.App.3d 884 [250 Cal.Rptr. 339]

CONFLICT OF INTEREST

witness against

Vangsness v. Superior Court (1984) 159 Cal.App.3d 1087 [206 Cal.Rptr. 45]

-attorney as

LA 75 (1934)

-present client

United States v. Henke (9th Cir. 2000) 222 F.3d 633

Bonin v. Vasquez (C.D. Cal. 1992) 794 F.Supp. 957

People v. Pennington (1991) 228 Cal.App.3d 959

CAL 1980-52

-witness in related case

McPhearson v. Michaels Company (2002) 96 Cal.App.4th 843 [117 Cal.Rptr.2d 489]

Gilbert v. National Corporation for Housing Partnerships (1999) 71 Cal.App.4th 1240 [84 Cal.Rptr. 204]

Former office represents client

Vangsness v. Superior Court (1984) 159 Cal.App.3d 1087, 1090 [206 Cal.Rptr. 45]

Franchisee law firms of franchise group

LA 423 (1983)

Gifts to attorney

attorney/beneficiary drafts gift instrument

Probate Code sections 15687, 21350 et seq.

Bank of America v. Angel View Crippled Children's Foundation (1998) 72 Cal.App.4th 451 [85 Cal.Rptr.2d 117]

Magee v. State Bar (1962) 58 Cal.2d 423 [24 Cal.Rptr. 839]

Government attorneys

attorney general may represent board where another state agency in the underlying proceeding retains separate counsel to avoid prohibited dual representation conflict

State Water Resources Control Bd. v. Superior Court (2002) 97 Cal.App.4th 907 [118 Cal.Rptr.2d 784]

Grand jury

Sixth Amendment right to counsel of one's choice does not apply

-disqualification order not appealable

In re Grand Jury Investigation (9th Cir. 1999) 182 F.3d 668

Guardian

attorney for

-also deemed to represent minor

CAL 1988-96

-former represents against as counsel for wife of deceased ward

LA(l) 1962-5

Homeowner's association – where attorney is member of association and represents plaintiffs against association

LA 397 (1982)

Impropriety, appearance of

*People v. Municipal Court (Wolfe) (1975) 69 Cal.App.3d 714 [138 Cal.Rptr. 235]

can exist even absent express attorney-client relationship

CAL 1981-63

Insurance cases

Civil Code section 2860

San Gabriel Basin Water Quality Authority v. Aerojet-General Corp. (C.D. Cal. 2000) 105 F.Supp.2d 1095

First Pacific Networks, Inc. v. Atlantic Mutual Ins. Co. (N.D. Cal. 1995) 163 F.R.D. 574

Frazier v. Superior Court (Ames) (2002) 97 Cal.App.4th 23 [118 Cal.Rptr.2d 129]

Gafcon, Inc. v. Ponsor & Associates (2002) 98 Cal.App.4th 1388 [120 Cal.Rptr.2d 392]

James 3 Corporation et al. v. Truck Insurance Exchange (2001) 91 Cal.App.4th 1093 [111 Cal.Rptr.2d 181]

San Gabriel Valley Water Company v. Hartford Accident and Indemnity Company (2000) 82 Cal.App.4th 1230 [98 Cal.Rptr.2d 807]

Gulf Insurance Co. v. Berger, Kahn et al. (2000) 79 Cal.App.4th 114 [93 Cal.Rptr.2d 534]

Novak v. Low, Ball & Lynch (1999) 77 Cal.App.4th 278 [91 Cal.Rptr.2d 453]

Mosier v. Southern California Physicians Insurance Exchange (1998) 63 Cal.App.4th 1022 [74 Cal.Rptr.2d 550]

Assurance Co. of America v. Haven (1995) 32 Cal.App.4th 78 [38 Cal.Rptr.2d 25]

Golden Eagle Insurance Co. v. Foremost Insurance Co. (1993) 20 Cal.App.4th 1372, 1395-1396

Blanchard v. State Farm Fire & Casualty (1991) 2 Cal.App.4th 345

Sheldon Appel Co. v. Albert & Olier (1989) 47 Cal.3d 863, 875 [254 Cal.Rptr. 336]

McGee v. Superior Court (1985) 176 Cal.App.3d 221, 227 [221 Cal.Rptr. 421]

Foremost Ins. Co. v. Wilks (1988) 206 Cal.App.3d 251, 261 [253 Cal.Rptr. 596]

Native Sun Investment Group v. Ticor Title Ins. Co. (1987) 189 Cal.App.3d 1265, 1277 [235 Cal.Rptr. 34] LA 501 (1999)

-obligation of counsel to exchange information does not sanction disclosure of client confidences

Frazier v. Superior Court (Ames) (2002) 97 Cal.App.4th 23 [118 Cal.Rptr.2d 129]

-statute partially changed the rule of the Cumis case

Frazier v. Superior Court (Ames) (2002) 97 Cal.App.4th 23 [118 Cal.Rptr.2d 129]

apportioning fees where conflict between insurer and insured

LA 424 (1984)

attorney's duty to act competently requires that decision making control over client's litigation be given to client despite contrary instructions from client's insurer

CAL 1995-139, LA 464 (1991)

conflict of interest does not arise every time the insurer proposes to provide a defense under a reservation of rights...insured's right to independent counsel "depends upon the nature of the coverage issue, as it relates to the underlying case."

Gafcon, Inc. v. Ponsor & Associates (2002) 98 Cal.App.4th 1388 [120 Cal.Rptr.2d 392]

Cumis counsel does not have attorney-client relationship with insurer for purposes of disqualification

San Gabriel Basin Water Quality Authority v. Aerojet-General Corp. (C.D. Cal. 2000) 105 F.Supp.2d 1095

Assurance Co. of America v. Haven (1995) 32 Cal.App.4th 78, 90 [38 Cal.Rptr.2d 25]

Cumis representation is based on ethical standards, not insurance concepts

Moser v. Southern California Physicians Insurance Exchange (1998) 63 Cal.App.4th 1022 [74 Cal.Rptr.2d 550]

dispute between insurer and insured as to policy coverage entitles insured to obtain counsel for third party claim at insurer's expense

San Gabriel Basin Water Quality Authority v. Aerojet-General Corp. (C.D. Cal. 2000) 105 F.Supp.2d 1095

San Gabriel Valley Water Company v. Hartford Accident and Indemnity Company (2000) 82 Cal.App.4th 1230 [98 Cal.Rptr.2d 807]

Novak v. Low, Ball & Lynch (1999) 77 Cal.App.4th 278 [91 Cal.Rptr.2d 453]

Executive Aviation, Inc. v. National Insurance Underwriters (1971) 16 Cal.App.3d 799, 808-810 [94 Cal.Rptr. 347]

LA 501 (1999), LA 439 (1986)

duty owed to insured and insurer

MGIC Indem. Corp. v. Weisman (9th Cir. 1986) 803 F.2d 500

San Gabriel Basin Water Quality Authority v. Aerojet-General Corp. (C.D. Cal. 2000) 105 F.Supp.2d 1095

First Pacific Networks, Inc. v. Atlantic Mutual Ins. Co. (N.D. Cal. 1995) 163 F.R.D. 574

Gafcon, Inc. v. Ponsor & Associates (2002) 98 Cal.App.4th 1388 [120 Cal.Rptr.2d 392]

CONFLICT OF INTEREST

- Gulf Insurance Co. v. Berger, Kahn et al. (2000) 79 Cal.App.4th 114 [93 Cal.Rptr.2d 534]
Novak v. Low, Ball & Lynch (1999) 77 Cal.App.4th 278 [91 Cal.Rptr.2d 453]
State Farm Mutual Automobile Insurance Company v. Federal Insurance Company (1999) 72 Cal.App.4th 1422 [86 Cal.Rptr.2d 20]
American Casualty Company v. O'Flaherty (1997) 57 Cal.App.4th 1070 [67 Cal.Rptr.2d 539]
Unigard v. O'Flaherty v. Belgium (1995) 38 Cal.App.4th 1229
Assurance Co. of America v. Haven (1995) 32 Cal.App.4th 78 [38 Cal.Rptr.2d 25]
Betts v. Allstate Ins. Co. (1984) 154 Cal.App.3d 688 [201 Cal.Rptr. 528]
 payment of insurer's reimbursement claims without client's consent may create conflict of interest
Farmers Insurance Exchange et al. v. Smith (1999) 71 Cal.App.4th 660 [83 Cal.Rptr.2d 911]
 CAL 1995-139, CAL 1987-91, LA 464 (1991), LA 345 (1982), LA 344 (1974), SD 1987-1
- fees
- insurer's ability to recover from insured
James 3 Corporation et al. v. Truck Insurance Exchange (2001) 91 Cal.App.4th 1093 [111 Cal.Rptr.2d 181]
Buss v. Superior Court (1996) 42 Cal.App.4th 1663 [50 Cal.Rptr.2d 447]
- for independent counsel to be required, the conflict of interest must be significant and actual
Gafcon, Inc. v. Ponsor & Associates (2002) 98 Cal.App.4th 1388 [120 Cal.Rptr.2d 392]
James 3 Corporation et al. v. Truck Insurance Exchange (2001) 91 Cal.App.4th 1093 [111 Cal.Rptr.2d 181]
- full disclosure of conflict of interests required in representation of insurer and insureds by same attorney
Industrial Indem. Co. v. Great American Insurance Co. (1977) 73 Cal.App.3d 529 [140 Cal.Rptr. 806]
 CAL 1988-96, CAL 1987-92, LA 395 (1982), LA 344 (1974)
- insured's right to be informed of conflict of interest
Manzanita Park, Inc. v. I.N.A. (9th Cir. 1988) 857 F.2d 549
- independent counsel's ability to represent insureds interest against insurer in coverage actions
Employers Insurance of Wausau v. Seeno (N.D. Cal. 1988) 692 F.Supp. 1150
- independent judgment
- failure to use
 SD 1974-21
- insurance company attorney
- former
 - acts against company in related matter
 LA 217 (1953)
 - represents
 - assured
 - and company
State Farm Mutual Automobile Insurance Company v. Federal Insurance Company (1999) 72 Cal.App.4th 1422 [86 Cal.Rptr.2d 20]
 LA 336 (1973)
- insurance company attorney represents insurance company
- and criminal defendant against insured
 SD 1972-2
 - assured
State Farm Mutual Automobile Insurance Company v. Federal Insurance Company (1999) 72 Cal.App.4th 1422 [86 Cal.Rptr.2d 20]
 SD 1978-5
- insured's counsel interjecting issue of collusion between defendant insured and plaintiff raises conflict of interest
Price v. Giles (1987) 196 Cal.App.3d 1469
- insurer has standing to sue law firm representing both insurer and insured
Gulf Insurance Co. v. Berger, Kahn et al. (2000) 79 Cal.App.4th 114 [93 Cal.Rptr.2d 534]
- insurer's right to control defense provided to insured
- the right to control the defense includes what measures are cost effective provided there is no actual conflict of interest
Gafcon, Inc. v. Ponsor & Associates (2002) 98 Cal.App.4th 1388 [120 Cal.Rptr.2d 392]
James 3 Corporation et al. v. Truck Insurance Exchange (2001) 91 Cal.App.4th 1093 [111 Cal.Rptr.2d 181]
- laches – delay in raising conflict of interest motion
Employers Insurance of Wausau v. Seeno (N.D. Cal. 1988) 692 F.Supp. 1150
- multiple representation of a claimant and the compensation insurance carrier against whom the claim is being made
Smiley v. Director, Office of Workers' Compensation Programs (9th Cir. 1992) 973 F.2d 1463
- representation of both insurer and insured to defeat third-party claim
Holmgren v. State Farm Mutual Automobile Insurance Company (9th Cir. 1992) 976 F.2d 573
Gafcon, Inc. v. Ponsor & Associates (2002) 98 Cal.App.4th 1388 [120 Cal.Rptr.2d 392]
Gulf Insurance Co. v. Berger, Kahn et al. (2000) 79 Cal.App.4th 114 [93 Cal.Rptr.2d 534]
American Mutual Liability Insurance Co. v. Superior Court (1974) 38 Cal.App.3d 579, 592 [113 Cal.Rptr. 561]
 CAL 1987-91, LA 352 (1976)
- insurer's attorney has duty to include insured's independent counsel in settlement negotiations and to fully exchange information
Novak v. Low, Ball & Lynch (1999) 77 Cal.App.4th 278 [91 Cal.Rptr.2d 453]
- representation of two insureds with potentially divergent interests requires disclosure
Spindle v. Chubb/Pacific Indemnity Group (1979) 89 Cal.App.3d 706, 713 [152 Cal.Rptr. 776]
- requires independent counsel for insured
 California Civil Code section 2860
San Gabriel Basin Water Quality Authority v. Aerojet-General Corp. (C.D. Cal. 2000) 105 F.Supp.2d 1095
Rockwell International Corp. v. Superior Court (1994) 26 Cal.App.4th 1255
Blanchard v. State Farm Fire & Casualty (1991) 2 Cal.App.4th 345
Sheldon Appel Co. v. Albert & Olier (1989) 47 Cal.3d 863, 875 [254 Cal.Rptr. 336]
Foremost Ins. Co. v. Wilks (1988) 206 Cal.App.3d 251, 261 [253 Cal.Rptr. 596]
U.S.F. & G. v. Superior Court (1988) 204 Cal.App.3d 1513
Native Sun Investment Group v. Ticor Title Ins. Co. (1987) 189 Cal.App.3d 1265, 1277 [235 Cal.Rptr. 34]
McGee v. Superior Court (1985) 176 Cal.App.3d 221 [221 Cal.Rptr. 421]
San Diego Navy Federal Credit Union v. Cumis Insurance Society (1984) 162 Cal.App.3d 358 [208 Cal.Rptr. 494]
 CAL 1995-139
 LA 501 (1999), LA 439 (1986), LA 424 (1984)
- insurer's attorney has duty to include insured's independent counsel in settlement negotiations and to fully exchange information
Novak v. Low, Ball & Lynch (1999) 77 Cal.App.4th 278 [91 Cal.Rptr.2d 453]
 - insurer's control over insured's selected counsel
U.S.F. & G. v. Superior Court (1988) 204 Cal.App.3d 1513
 - insurer that voluntarily provided courtesy defense but no indemnification had duty to defend uninsured as if they had been insured
Mosier v. Southern California Physicians Insurance Exchange (1998) 63 Cal.App.4th 1022 [74 Cal.Rptr.2d 550]
- CRPC 3-310 requires informed consent for continued representation of all clients

CONFLICT OF INTEREST

- Gulf Insurance Co. v. Berger, Kahn et al. (2000) 79 Cal.App.4th 114 [93 Cal.Rptr.2d 534]
 withdrawal
 LA 395 (1982), LA 344 (1974)
 Insured's consent required for prior counsel to maintain role in case on behalf of insurer
 SD 1987-1
 Issues, attorney argues inconsistent positions
 CAL 1989-108
 Joint powers arrangement
 Joint Powers Act
 Government Code section 6500, et seq.
Elliott v. McFarland Unified School District (1985) 165 Cal.App.3d 562 [211 Cal.Rptr. 802]
 60 Ops. Cal. Atty. Gen. 206, 212-213 (7/7/77; No. CV 76-14)
 Joint representation of clients in the same matter
Zador Corp. v. Kwan (1995) 31 Cal.App.4th 1285 [37 Cal.Rptr.2d 754]
 corporation and corporate director as co-defendants
 LA 471 (1992)
 Joint venture
 LA 412 (1983)
 Judge
 attorney appearing before judge is also the personal counsel of the judge
In re Georgetown Park Apartments (9th Cir.1992) 143 B.R. 557
 failure of judge to disqualify himself after having previously represented one party as attorney was not reviewable on appeal following appellant's earlier failure to seek writ review
People v. Barrera (1999) 70 Cal.App.4th 541 [82 Cal.Rptr.2d 755]
 vicarious disqualification of a firm does not automatically follow the personal disqualification of the tainted attorney, a former settlement judge
County of Los Angeles v. United States District Court (Forsyth) (9th Cir. 2000) 223 F.3d 990
 Literary rights
 LA 451, LA 409 (1983)
 actual conflict of interest required to establish violation of 6th Amendment rights when attorney contracts to write book re trial
United States v. Hearst (1981) 638 F.2d 1190
 attorney contract for publication rights about trial
United States v. Hearst (N.D. Cal. 1978) 466 F. Supp. 1068
 attorney's literary rights to trial adverse to client's interests
People v. Corona (1978) 80 Cal.App.3d 684, 720 [145 Cal.Rptr. 894]
 "life story" fee agreement all right if accused knowingly and intelligently waives potential conflicts
Maxwell v. Superior Court (1982) 30 Cal.3d 606 [180 Cal.Rptr. 177, 639 P.2d 248]
 literary rights agreement not found neither prior to nor during actual trial
Bonin v. Vasquez (C.D. Cal. 1992) 794 F.Supp. 957
 Lobbying firm
 Dual capacity of a lobbyist and legal counsel for a state agency may be permissible
 78 Ops. Cal. Atty. Gen. 322 (11/8/95; No. 95-616)
 Maintaining independence of professional judgment
 Rule 1-600, Rules of Professional Conduct
 Rule 3-310(F), Rules of Professional Conduct (operative as of September 14, 1992)
 LA 500 (1999)
 Marvin agreement
 representation of husband and wife on estate plan, later husband on Marvin agreement with another woman
 LA 448 (1987)
 May arise from an attorney relationship with a non-client if attorney owes duty of fidelity
Allen v. Academic Games League of America (1993) 831 F.Supp. 785
William H. Raley Co. v. Superior Court (1983) 149 Cal.App.3d 1042, 1047 [197 Cal.Rptr. 232]
 CAL 1993-132
 Mediator
 attorney who mediates one case is generally not disqualified from litigating later cases against the same party
Barajas v. Oren Realty and Development (1997) 57 Cal.App.4th 209 [67 Cal.Rptr.2d 62]
 Multiple representation
Zador Corp. v. Kwan (1995) 31 Cal.App.4th 1285 [37 Cal.Rptr.2d 754]
 CAL 1993-132, LA 471 (1992), LA 427 (1984), SF 1973-26, SF 1973-15
 actual v. potential conflict
 LA 471 (1992), LA 427 (1984)
 absent an actual conflict between an opposing attorney's clients, a party should not be able to create one by merely filing a meritless cross-complaint
 mortgagee and mortgagor
Federal Home Loan Mortgage Corporation v. La Conchita Ranch Company (1998) 68 Cal.App.4th 856 [80 Cal.Rptr.2d 634]
 assistant district attorney representing county and private citizen
Dettamanti v. Lompoc Unions District (1956) 143 Cal.App.2d 715 [300 P.2d 78]
 attorney for former business associates later represents one of those clients against the others in a matter directly related to earlier representation
*Croce v. Superior Court (1937) 21 Cal.App.2d 18, 19 [68 P.2d 369]
 attorney partner in a partnership arrangement acting as counsel for both sides in a leasing transaction
Olivet v. Frischling (1980) 104 Cal.App.3d 831 [164 Cal.Rptr. 87]
 attorney representing conflicting issues in litigation
McClure v. Donovan (1947) 82 Cal.App.2d 664, 666 [186 P.2d, 718]
 attorney represents two insureds with potentially divergent interests
Spindle v. Chubb/Pacific Indemnity Group (1979) 89 Cal.App.3d 706, 713 [152 Cal.Rptr. 776]
 LA 395 (1982)
 attorney's former joint representation of parties justified disqualification from representing one against the other
Western Continental Operating Co. v. Natural Gas Corp. (1989) 212 Cal.App.3d 752 [261 Cal.Rptr. 100]
 attorney's former joint representation of parties did not require disqualification where valid waiver found
Zador Corp. v. Kwan (1995) 31 Cal.App.4th 1285 [37 Cal.Rptr.2d 754]
 both sides
Olivet v. Frischling (1980) 104 Cal.App.3d 831 [164 Cal.Rptr. 87]
 SD 1976-16
 business firm and clients of business
 -when attorney is partner in business
 CAL 1969-18
 clients each demand the original file
 LA 493 (1998)
 concurrent representation of adverse parties in separate matters is not cured by ending relationship with previous client
*GATX/Airlog Company v. Evergreen International Airlines, Inc. (1998) 8 F.Supp.2d 1182
American Airlines v. Sheppard Mullin, Richter & Hampton (2002) 96 Cal.App.4th 1017 [117 Cal.Rptr.2d 685]
Metro-Goldwyn-Mayer v. Tracinda Corp. (1995) 36 Cal.App.4th 1832 [43 Cal.Rptr.2d 327]
Stanley v. Richmond (1995) 35 Cal.App.4th 1070 [41 Cal.Rptr.2d 768]

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- Buehler v. Sbardellati (1995) 34 Cal.App.4th 1527 [41 Cal.Rptr.2d 104]
Flatt v. Superior Court (1994) 9 Cal.4th 275 [36 Cal.Rptr.2d 537]
Responsible Citizens v. Superior Court (1993) 16 Cal.App.4th 1717
Truck Insurance Exchange v. Fireman's Fund Insurance Co. (1992) 6 Cal.App.4th 1050 [8 Cal.Rptr.2d 228]
- concurrent representation of clients with adverse interests
State Farm Mutual Automobile Insurance Company v. Federal Insurance Company (1999) 72 Cal.App.4th 1422 [86 Cal.Rptr.2d 20]
- consent of all parties
Image Technical Services v. Eastman Kodak Co. (N.D. Cal. 1993) 820 F.Supp. 1212
Arden v. State Bar (1959) 52 Cal.2d 310 [341 P.2d 6]
In the Matter of Wyshak (Review Dept. 1999) 4 Cal. State Bar Ct. Rptr. 70
+In the Matter of Aguiluz (Review Dept. 1994) 2 Cal. State Bar Ct. Rptr. 32
In the Matter of Fonte (Review Dept. 1994) 2 Cal. State Bar Ct. Rptr. 752
LA 22 (1923), SD 1974-22
- consultation with attorney, evidence of relationship
[See Attorney-Client Relationship, Consultation with, prima facie case of existence of.]
- corporation and directors
Forrest v. Baeza (1997) 58 Cal.App.4th 65 [67 Cal.Rptr.2d 857]
CAL 1999-153
- corporation and officers
Pringle v. La Chappelle (1999) 73 Cal.App.4th 1000 [87 Cal.Rptr.2d 90]
CAL 1999-153
- county counsel represents a department of the county and an individual
In re Lee G. (1991) 1 Cal.App.4th 17 [1 Cal.Rptr.2d 375]
LA 459 (1990)
- corporate director/attorney representing client in transaction with corporation
CAL 1993-132
- corporation and board of directors on derivative suit
LA 397 (1982)
- creating a conflict by the mere filing of a meritless cross-complaint should not establish a conflict between opposing attorney's clients where no previous conflict existed
Federal Home Loan Mortgage Corporation v. La Conchita Ranch Company (1998) 68 Cal.App.4th 856 [80 Cal.Rptr.2d 634]
- criminal defendants by public defender's office
59 Ops. Cal. Atty. Gen.27, 28 (1/15/76; No. CV 72-278)
- criminal proceeding
People v. Amaya (1986) 180 Cal.App.3d 1 [225 Cal.Rptr. 313]
CAL 1979-49, CAL 1975-35, CAL 1970-22
- criminal prosecution
-co-defendants entitled to separate representation
United States v. Moore (9th Cir. 1998) 159 F.3d 1154
People v. Mroczko (1983) 35 Cal.3d 86 [197 Cal.Rptr. 52]
People v. Elston (1982) 130 Cal.App.3d 721 [182 Cal.Rptr. 30]
-privately retained counsel representing co-defendants
People v. Cook (1975) 13 Cal.3d 663, 670-673 [119 Cal.Rptr. 500, 532 P.2d 148]
People v. Amaya (1986) 180 Cal.App.3d 1 [225 Cal.Rptr. 313]
- Dependency Court Legal Services may represent multiple parties with adverse interests
Castro v. Los Angeles County Board of Supervisors (1991) 232 Cal.App.3d 1432
- dependency proceeding
-separate counsel must be appointed when actual conflict exists among minor clients or when there is a reasonable probability that a potential conflict will become actual
Carroll v. Superior Court (2002) 101 Cal.App.4th 1423 [124 Cal.Rptr.2d 891]
- disqualification order not appealable in the grand jury context
In re Grand Jury Investigation (9th Cir. 1999) 182 F.3d 668
- dissolution of marriage
Ishmael v. Millington (1966) 241 Cal.App.2d 520 [50 Cal.Rptr. 592]
- divorce action
-party and receiver appointed in same action
LA 52 (1927)
-post-nuptial agreement enforceable despite law firm's dual representation of husband and wife in estate plan
In re Marriage of Friedman (2002) 100 Cal.App.4th 65 [122 Cal.Rptr.2d 412]
- employer and employee-alien in an immigration matter
LA 465 (1991)
- estate planning matter
-representation of testator and beneficiary
SD 1990-3
- franchise group of law firms
LA 423 (1983)
- husband and ex-wife in tax proceedings
Devore v. Commissioner of Internal Revenue Service (9th Cir. 1992) 963 F.2d 280
- husband and wife in dissolution of marriage
In re Marriage of Egedi (2001) 88 Cal.App.4th 17 [105 Cal.Rptr.2d 518]
Klemm v. Superior Court (1977) 75 Cal.App.3d 893 [142 Cal.Rptr. 509]
- husband and wife in estate plan, and subsequent agreement for husband only
LA 448 (1987)
- in-house counsel for organization represents outside company in merger with organization
LA 353
- insurance company
-and insured
MGIC Indem. Corp. v. Weisman (9th Cir. 1986) 803 F.2d 500
Gafcon, Inc. v. Ponsor & Associates (2002) 98 Cal.App.4th 1388 [120 Cal.Rptr.2d 392]
Gulf Insurance Co. v. Berger, Kahn et al. (2000) 79 Cal.App.4th 114 [93 Cal.Rptr.2d 534]
Novak v. Low, Ball & Lynch (1999) 77 Cal.App.4th 278 [91 Cal.Rptr.2d 453]
State Farm Mutual Automobile Insurance Company v. Federal Insurance Company (1999) 72 Cal.App.4th 1422 [86 Cal.Rptr.2d 20]
Industrial Indem. Co. v. Great American Insurance Co. (1977) 73 Cal.App.3d 529 [140 Cal.Rptr. 806]
American Mutual Liability Insurance Co. v. Superior Court (1974) 38 Cal.App.3d 579, 592 [113 Cal.Rptr. 561]
Lysick v. Walcom (1968) 258 Cal.App.2d 136, 146 [65 Cal.Rptr. 406]
--actual conflict
Burum v. State Comp. Ins. Fund (1947) 30 Cal.2d 575 [184 P.2d 505]
James 3 Corporation et al. v. Truck Insurance Exchange (2001) 91 Cal.App.4th 1093 [111 Cal.Rptr.2d 181]
--and another party
Hammett v. McIntyre (1952) 114 Cal.App.2d 148 [249 P.2d 885]
--attorney who is director subject to same conflicting interests as attorney for carrier
SF 1979-2

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- Cumis counsel does not have attorney-client relationship with insurer for purposes of disqualification
 - San Gabriel Basin Water Quality Authority v. Aerojet-General Corp. (C.D. Cal. 2000) 105 F.Supp.2d 1095
 - Assurance Co. of America v. Haven (1995) 32 Cal.App.4th 78, 90 [38 Cal/Rptr.2d 25]
- withdrawal
 - LA 395 (1982), LA 344 (1974)
- and party adverse to insurer
 - Anderson v. Eaton (1930) 211 Cal. 113 [293 P. 788]
- providing courtesy defense
 - insurer that voluntarily provided courtesy defense but no indemnification had duty to defend uninsured as if they had been insured
 - Mosier v. Southern California Physicians Insurance Exchange (1998) 63 Cal.App.4th 1022 [74 Cal.Rptr.2d 550]
- limited and general partnerships
 - Johnson v. Haberman & Kassoy (1988) 201 Cal.App.3d 1468 [247 Cal.Rptr. 614]
 - LA 461 (1990)
- minor and guardian
 - CAL 1988-96
- non-profit legal corporation created by a county board of supervisors does not give rise to a conflict of interest even if the corporation represents multiple parties with adverse interest
 - Castro v. Los Angeles County Board of Supervisors (1991) 232 Cal.App.3d 1432
- of executor
 - in individual capacity against co-executor
 - LA 72 (1934)
- permanency hearing where one attorney represents two brothers creates conflict when court is considering post-termination sibling visitation issues
 - In re Clifton B. (2000) 81 Cal.App.4th 415 [96 Cal.Rptr.2d 778]
- preparation of answer for opposing party
 - LA 432 (1984)
- privilege held between co-client
 - Evidence Code section 962
 - Zador Corp. v. Kwan (1995) 31 Cal.App.4th 1285 [37 Cal.Rptr.2d 754]
- probate matter
 - representation of decedent's spouse and executor
 - LA 23 (1923)
 - withdrawal from
 - when lawyer represents executor being sued by beneficiary
 - LA 23 (1923)
- sale and purchase of stock of corporation
 - SF 1973-10
- unauthorized representation
 - Zirbes v. Stratton (1986) 187 Cal.App.3d 1407 [232 Cal.Rptr. 653]
- without consent of client
 - Gendron v. State Bar (1983) 35 Cal.3d 409, 410-411
 - *In the Matter of Twitty (Review Dept. 1994) 2 Cal. State Bar Ct. Rptr. 664
- workers' compensation insurance carrier and a claimant making a claim against one of the carrier's insureds
 - Smiley v. Director, Office of Workers' Compensation (9th Cir. 1992) 973 F.2d 1463
- Obtaining loan from client
 - disclosure and written consent required
 - Lewis v. State Bar (1981) 28 Cal.3d 683 [170 Cal.Rptr. 634, 621 P.2d 258]
- Of counsel
 - Atasi Corp. v. Seagate Technology (9th Cir. 1988) 847 F.2d 826
 - firm's acceptance of client adverse to of counsel's client
 - CAL 1993-129
 - SF 1985-1(F)
 - vicarious disqualification where "of counsel" attorney and law firm represented opposing parties and where "of counsel" attorney obtained confidential information and provided legal services to client
 - People ex rel. Dept. of Corporations v. Speedee Oil Change Systems (1999) 20 Cal.4th 1135 [86 Cal.Rptr.2d 816]
- Office sharer
 - CAL 1979-50, LA 216
- represent opposing sides
 - SD 1972-15
- Opposing counsel
 - joins partnership
 - LA(l) 1962-2
- Opposing party
 - represent
 - client against after obtaining information from
 - LA 193 (1952)
- Ordinance violation
 - city council member represents in
 - LA 273 (1962), SD 1969-1
- Partnership
 - attorney for
 - Responsible Citizens v. Superior Court (1993) 16 Cal.App. 4th 1717
 - In re McCarthy (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 364
 - CAL 1994-137
 - represents all partners
 - Hecht v. Superior Court (1987) 192 Cal.App.3d 560 [237 Cal.Rptr. 528]
 - Wortham & Van Liew et al. v. Superior Court (1986) 188 Cal.App.3d 927 [233 Cal.Rptr. 725]
 - formation of
 - LA(l) 1967-11
 - member of partnership acting as counsel for partnership and another party transacting business with partnership
 - Olivet v. Frischling (1980) 104 Cal.App.3d 831 [164 Cal.Rptr. 87]
 - no conflict exists for attorney in representation when client partners pursue a common business goal
 - Buehler v. Sbardellati (1995) 34 Cal.App.4th 1527 [41 Cal.Rptr.2d 104]
 - opposing counsel joins
 - LA(l) 1962-2
 - practices
 - prosecutor
 - LA 377 (1978)
 - when member is
 - city attorney
 - LA(l) 1975-4
 - city council member
 - CAL 1981-63, CAL 1977-46
 - LA(l) 1975-4
 - prosecutor
 - LA 377 (1978)
 - prior representation re partnership agreement held not conflict in subsequent litigation covering partnership asset
 - Quaglin v. Quaglin (1979) 88 Cal.App.3d 542 [152 Cal.Rptr. 47]
 - representation of both general and limited partners in partnership
 - Johnson v. Haberman & Kassoy (1988) 201 Cal.App.3d 1468 [247 Cal.Rptr. 614]
 - LA 461 (1990)
 - representation of partner against another when represents partnership
 - LA 412 (1983)
 - represents
 - against
 - when associate before joining acted for other side
 - LA 363 (1976)
 - custody proceedings
 - CAL 1976-37
 - estate
 - member against relative of client
 - LA(l) 1956-8
 - member-executor

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- LA 219 (1954)
- member-trustee
 - LA 219 (1954)
 - when member before joining acted for other side
 - LA 269 (1960), LA 252 (1958), LA 246 (1957)
- in civil matter
 - against city
 - when member is city councilor
 - CAL 1981-63
 - in criminal matter
 - when member is
 - city attorney
 - LA(l) 1975-4
 - city councilor
 - CAL 1977-46
 - LA(l) 1975-4
 - prosecutor
 - LA 377 (1978)
 - undertaking partnership with opposing counsel compromises client's interest and constitutes breach of fiduciary duty
 - Stanley v. Richmond (1995) 35 Cal.App.4th 1070 [41 Cal.Rptr.2d 768]
- Partnership, business
 - regarding divorce
 - Woods v. Superior Court (1983) 149 Cal.App.3d 931 [197 Cal.Rptr. 185]
 - regarding termination agreement drafted by other counsel
 - LA(l) 1963-9
- Personal interest in client's case
 - LA(l) 1974-8
- Personal relationship between counsel
 - Rule 3-320, California Rules of Professional Conduct (operative as of May 27, 1989)
 - CAL 1984-83
- Personal relationship with client
 - Barbara A. v. John G. (1983) 145 Cal.App.3d 369 [193 Cal.Rptr. 422]
 - CAL 1987-92
- Physician
 - represent
 - client's physician against client re unpaid witness's fee
 - LA(l) 1931-1
- Police officer
 - also lawyer
 - LA 94 (1936)
 - defends criminal cases
 - LA 94 (1936)
- Potential conflict
 - CAL 1988-9(l)
 - civil litigation
 - Klemm v. Superior Court (1977) 75 Cal.App.3d 893, 899 [142 Cal.Rptr. 509]
 - civil proceedings
 - Burum v. State Comp. Ins. Fund (1947) 30 Cal.2d 575, 584 [184 P.2d 505]
 - criminal proceeding
 - between co-defendants
 - CAL 1970-22
 - dissolution of marriage
 - In re Marriage of Egedi (2001) 88 Cal.App.4th 17 [105 Cal.Rptr.2d 518]
- Prior representation
 - as corporate counsel for family corporation
 - Woods v. Superior Court (1983) 149 Cal.App.3d 931, 935 [197 Cal.Rptr. 185]
 - of opposing party's insurer
 - San Gabriel Basin Water Quality Authority v. Aerojet-General Corp. (C.D. Cal. 2000) 105 F.Supp.2d 1095
 - sufficiency
 - Quaglin v. Quaglin (1979) 88 Cal.App.3d 542, 549 [152 Cal.Rptr. 47]
- Prosecuting attorney [See Conflict of interest, attorney general; commonwealth's attorney; district attorney.]
 - employer of, practice by
 - LA 377 (1978)
 - partner of
 - practice by
 - LA 377 (1978)
 - represents
 - in criminal cases
 - Business and Professions Code section 6131
 - LA 377 (1978)
 - private practice
 - district attorney engaged in
 - 8 Ops. Cal. Atty. Gen. 301 (12/11/46; No. 46-354)
 - 4 Ops. Cal. Atty. Gen. 39 (7/19/44; No. NS-5517)
 - representation of criminal defendant by member of firm acting as city prosecutor
 - LA 453
- Public agency attorneys
 - common interest between prosecutor's office and agency that funded a nuisance abatement specialist position in prosecutor's office does not in itself create a conflict
 - People v. Parmar (2001) 86 Cal.App.4th 781 [104 Cal.Rptr.2d 31]
 - participation in bonus program tied to savings by public agency
 - SD 1997-2
- Public defender
 - appointment of public defender to represent defendant at sentencing not precluded by public defender's office representation of co-defendant at trial
 - People v. Ware (1966) 241 Cal.App.2d 143, 146-148 [50 Cal.Rptr. 252]
 - conflict of interest
 - representation of one co-defendant by public defender and representation of other co-defendant by alternate public defender
 - People v. Christian (1996) 41 Cal.App.4th 986 [48 Cal.Rptr.2d 867]
 - CAL 2002-158
 - law firm holding county contract to provide public defender wishes to associate retired district attorney
 - 62 Ops. Cal. Atty. Gen. 546 (10/5/79; No. 79-622)
 - multiple representation
 - separate counsel must be appointed when actual conflict exists among minor clients or when there is a reasonable probability that a potential conflict will become actual
 - Carroll v. Superior Court (2002) 101 Cal.App.4th 1423 [124 Cal.Rptr.2d 891]
 - representation of criminal defendant by separate division within office does not alleviate conflict
 - 59 Ops. Cal. Atty. Gen. 27 (1/15/76; No. CV 72-278)
 - withdrawal
 - Aceves v. Superior Court (1996) 51 Cal.App.4th 584 [59 Cal.Rptr.2d 280]
 - Uhl v. Municipal Court (1974) 37 Cal.App.3d 526 [112 Cal.Rptr. 478]
- Public office
 - duality of
 - 58 Ops. Cal. Atty. Gen. 241 (4/29/75; No. CV 74-251)
 - 38 Ops. Cal. Atty. Gen. 121, 123 (10/9/61; No. 61-91)
 - Publication of article regarding client's case
 - no conflict found
 - LA 451 (1988)
- Purpose of rule 3-300
 - Santa Clara County Counsel Attorneys Assn. v. Woodside (1994) 7 Cal.4th 525
 - SF 1997-1
- Purpose of rule 3-310
 - Santa Clara County Counsel Attorneys Assn. v. Woodside (1994) 7 Cal.4th 525
 - American Airlines v. Sheppard Mullin, Richter & Hampton (2002) 96 Cal.App.4th 1017 [117 Cal.Rptr.2d 685]
 - City National Bank v. Adams (2002) 96 Cal.App.4th 315 [117 Cal.Rptr.2d 125]

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- In re Marriage of Zimmerman (1993) 16 Cal.App.4th 556 [20 Cal.Rptr.2d 132]
Henriksen v. Great American Savings and Loan (1992) 11 Cal.App.4th 109 [14 Cal.Rptr.2d 184]
- Purpose of rule 3-600
*Ronson v. Superior Court (1994) 24 Cal.App.4th 94 [29 Cal.Rptr.2d 268]
Responsible Citizens v. Superior Court (1993) 16 Cal.App.4th 1717
- Real estate transactions [See Conflict of interest, foreclosure; title.]
deed of trust on client's property through use of wife of attorney
Calzada v. Sinclair (1970) 6 Cal.App.3d 903 [86 Cal.Rptr. 387]
represent
-buyer and seller/later one against other
LA 471, SF 1973-22
-client in donating property to another client later same client in attempt to secure return of property
LA(l) 1970-10
- Recusal of district attorney
People v. Eubanks (1996) 14 Cal.4th 580 [59 Cal.Rptr.2d 200, 927 P.2d 310] (mod. at 14 Cal.4th 1282D)
People v. Conner (1983) 34 Cal.3d 141 [193 Cal.Rptr. 148, 666 P.2d 5]
Williams v. Superior Court (1988) 198 Cal.App.3d 960 [244 Cal.Rptr. 88]
People v. Lopez (1984) 155 Cal.App.3d 813 [202 Cal.Rptr. 333]
*Younger v. Superior Court (1978) 77 Cal.App.3d 592 [144 Cal.Rptr. 34]
prior representation as private attorney and necessity for making claim timely
People v. Johnson (1980) 105 Cal.App.3d 884, 889-891 [164 Cal.Rptr. 746]
prior representation in criminal matters now prosecuting
People v. Lepe (1985) 164 Cal.App.3d 685 [211 Cal.Rptr. 432]
relative of crime victim employed in district attorney's office
*People v. Superior Court (Greer) (1977) 19 Cal.3d 255 [137 Cal.Rptr. 476, 561 P.2d 1164]
- Related matter
City National Bank v. Adams (2002) 96 Cal.App.4th 315 [117 Cal.Rptr.2d 125]
In re Marriage of Zimmerman (1993) 16 Cal.App.4th 556 [20 Cal.Rptr.2d 132]
Dill v. Superior Court (1984) 158 Cal.App.3d 301
Global Van Lines v. Superior Court (1983) 144 Cal.App.3d 483 [192 Cal.Rptr. 609]
- Relationship with opposing counsel
Rule 3-320, Rules of Professional Conduct
Manley v. Fireman's Fund Insurance Co. (9th Cir. 1989) 883 F.2d 747
People v. Jackson (1985) 167 Cal.App.3d 829 [213 Cal.Rptr. 521]
34 Santa Clara L.Rev. 1157 (1994)
CAL 1984-83, SD 1989-4, SD 1976-12
- Relative
partnership represents member against relative of client
LA(l) 1956-8
represent
-against client's relative
LA(l) 1956-8
-daughter against son-in-law
SF 1973-6
spouse
-represent
--client's in divorce
LA 207 (1953), LA 192 (1952)
--former client's in divorce
LA(l) 1971-8
- Remedies of former clients
People v. Superior Court (Corona) (1981) 30 Cal.3d 193, 200 [178 Cal.Rptr. 334, 636 P.2d 23]
- Remedy
Alliance Bank v. Murray (1984) 161 Cal.App.3d 1 [207 Cal.Rptr. 233]
- Represent
both client A in suit A v. B, and client B in suit B v. C
Rule 3-310(C)(3), California Rules of Professional Conduct
State Farm Mutual Automobile Insurance Company v. Federal Insurance Company (1999) 72 Cal.App.4th 1422 [86 Cal.Rptr.2d 20]
Metro-Goldwyn-Mayer, Inc. v. Tracinda Corp. (1995) 36 Cal.App.4th 1832 [43 Cal.Rptr.2d 327]
Flatt v. Superior Court (1994) 9 Cal.4th 275 [36 Cal.Rptr.2d 537]
LA 506, LA 333 (1973)
both guardian and minor
CAL 1988-96
both interests of child and state
-in welfare proceeding
CAL 1977-45
both sides
SF 1973-15
multiple witnesses in a grand jury investigation
In re Grand Jury Investigation (9th Cir. 1999) 182 F.3d 668
party to reclaim rights from federal government/parties in whom rights are vested
SD 1968-3
- Representation by public officials
city councilman as defense attorney in criminal proceeding
People v. Municipal Court (Wolfe) (1977) 69 Cal.App.3d 714 [138 Cal.Rptr. 235]
county counsel acts as attorney for district under Municipal Water District Act of 1911, not permitted
30 Ops. Cal. Atty. Gen. 86 (8/23/57; No. 57-149)
- Representation of co-defendants
U.S. v. Lightbourne (9th Cir. 1996) 104 F.3d 1172
People v. Pastrano (1997) 52 Cal.App.4th 610 [60 Cal.Rptr.2d 620]
People v. Barboza (1981) 29 Cal.3d 375 [173 Cal.Rptr. 458, 627 P.2d 188]
In re Noday (1981) 125 Cal.App.3d 507, 517-519 [178 Cal.Rptr. 653]
In re Charles L. (1976) 63 Cal.App.3d 760, 764 [132 Cal.Rptr. 840]
CAL 2002-158, LA 471 (1992)
actual conflict for joint representation can exist due to co-defendant's psychological domination of defendant sibling
United States v. Stites (9th Cir. 1995) 56 F.3d 1020
actual conflict not found
People v. Bryant (1969) 275 Cal.App.2d 215 [79 Cal.Rptr. 549]
public defender's office representation of co-defendant does not preclude representation of other co-defendant at sentencing hearing
People v. Ware (1966) 241 Cal.App.2d 143 [50 Cal.Rptr. 252]
separate trials for co-defendants but attorneys for both associated with one another
People v. Avalos (1979) 98 Cal.App.3d 701, 715-716 [159 Cal.Rptr. 736]
CAL 1979-49, CAL 1970-22
- Right to effective counsel
attorney's literary rights to trial interfered with duty of undivided loyalty to client
People v. Corona (1978) 80 Cal.App.3d 684, 720-721 [145 Cal.Rptr. 894]
multiple representation as violation of Sixth Amendment
Cuyler v. Sullivan (1980) 446 U.S. 335, 348 [100 S.Ct. 1708, 64 L. Ed. 2d 333]
United States v. Moore (9th Cir. 1998) 159 F.3d 115
public defender refused to participate but no actual prejudice resulted

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- People v. McKenzie (1983) 34 Cal.3d 616 [194 Cal.Rptr. 462, 668 P.2d 769]
publication rights in trial
- United States v. Hearst (9th Cir. 1981) 638 F.2d 1190
Rules developed for private sector may not squarely fit realities of public attorney's practice
- People v. Christian (1996) 41 Cal.App.4th 986 [48 Cal.Rptr.2d 867]
In re Lee G. (1991) 1 Cal.App.4th 17 [1 Cal.Rptr.2d 375]
CAL 2002-158
- Salaries
62 Ops. Cal. Atty. Gen. 54 (2/6/79; No. CV 77-243)
- Self-dealing
attorney as trustee
Lyders v. State Bar (1938) 12 Cal.2d 261, 264-265
attorney purchasing real property subject of representation of client
Tomblin v. Hill (1929) 206 Cal. 689 [275 P. 941]
- Settlement
conflicting instructions from insurer and insured
LA 344 (1974)
represent
-in when fee owed by client comes out of proceeds of
SD 1975-4
vicarious disqualification of a firm does not automatically follow the personal disqualification of the tainted attorney, a former settlement judge
County of Los Angeles v. United States District Court (Forsyth) (9th Cir. 2000) 223 F.3d 990
- Sexual relations with client
Rule 3-120, California Rules of Professional Conduct
Business and Professions Code Sections 6106.8 and 6106.9
McDaniel v. Gile (1991) 230 Cal.App.3d 363
Barbara A. v. John G. (1983) 145 Cal.App.3d 369
CAL 1987-92
- Sharing office space with another attorney
People v. Pastrano (1997) 52 Cal.App.4th 610 [60 Cal.Rptr.2d 620]
CAL 1997-150, CAL 1986-90, CAL 1979-50
SD 1985-1, LA 216 (1953)
represent opposing sides
SD 1972-15
- Special counsel appointed by bankruptcy court to represent bankruptcy trustee of debtor may have a conflict as a result of duties owed to the debtor's principals
In re Westwood Shake & Shingle, Inc. (9th Cir. 1992) 971 F.2d 387
- Special office
created to avoid conflicts
62 Ops. Cal. Atty. Gen. 764 (12/7/79; No. 79-817)
59 Ops. Cal. Atty. Gen. 27 (1/15/76; No. CV 72-278)
- Standing to assert
Allen v. Academic Games League of America (C.D. Cal 1993) 831 F.Supp. 785, 788
DCH Health Services Corp. v. Waite (2002) 95 Cal.App.4th 829 [115 Cal.Rptr.2d 847]
State Water Resources Control Bd. v. Superior Court (2002) 97 Cal.App.4th 907 [118 Cal.Rptr.2d 784]
McGee v. Superior Court (1985) 176 Cal.App.3d 221 [221 Cal.Rptr. 421]
absent an actual conflict between an opposing attorney's clients, a party should not be able to create one by merely filing a meritless cross-complaint
Federal Home Loan Mortgage Corporation v. La Conchita Ranch Company (1998) 68 Cal.App.4th 856 [80 Cal.Rptr.2d 634]
insurer has standing to sue law firm representing both insurer and insured
Gulf Insurance Co. v. Berger, Kahn et al. (2000) 79 Cal.App.4th 114 [93 Cal.Rptr.2d 534]
litigant lacks standing to assert a third party's conflict of interest claim against opposing counsel
Colyer v. Smith (C.A. Cal. 1999) 50 F.Supp.2d 966
DCH Health Services Corp. v. Waite (2002) 95 Cal.App.4th 829 [115 Cal.Rptr.2d 847]
- laches
Employers Insurance of Wausau v. Seeno (N.D. Cal. 1988) 692 F. Supp. 1150
River West, Inc. v. Nickel, Jr. (1987) 188 Cal.App.3d 1297 [234 Cal.Rptr. 33]
- Substantial relationship
Bankruptcy of Mortgage & Realty Trust (1996) 195 B.R. 740
Frazier v. Superior Court (Ames) (2002) 97 Cal.App.4th 23 [118 Cal.Rptr.2d 129]
City National Bank v. Adams (2002) 96 Cal.App.4th 315 [117 Cal.Rptr.2d 125]
Adams v. Aerojet-General Corp. (2001) 86 Cal.App.4th 1324 [104 Cal.Rptr.2d 116]
Forrest v. Baeza (1997) 58 Cal.App.4th 65 [67 Cal.Rptr.2d 857]
Zador Corp. v. Kwan (1995) 31 Cal.App.4th 1285 [37 Cal.Rptr.2d 754]
Elan Transdermal Limited v. Cygnus Therapeutic Systems (N.D. Cal. 1992) 809 F.Supp. 1383
Employers Insurance of Wausau v. Seeno (N.D. Cal. 1988) 692 F.Supp. 1150
In the Matter of Lane (Review Dept. 1994) 2 Cal. State Bar Ct. Rptr. 735
CAL 1998-152, LA 501 (1999)
applicable to determine whether information law firm received as "monitoring counsel" for corporate parent's insurance underwriters disqualified firm from representing a party against corporate subsidiary
Morrison Knudsen Corp. v. Hancock, Rothert & Bunshoft, LLP (1999) 69 Cal.App.4th 223 [81 Cal.Rptr.2d 425]
between representation of current client(s) and prior representation of opposing party
Damron v. Herzog (9th Cir. 1995) 67 F.3d 211
San Gabriel Basin Water Quality Authority v. Aerojet-General Corp. (C.D. Cal. 2000) 105 F.Supp.2d 1095
People ex rel. Dept. of Corporations v. Speedee Oil Change Systems (1999) 20 Cal.4th 1135 [86 Cal.Rptr.2d 816]
City National Bank v. Adams (2002) 96 Cal.App.4th 315 [117 Cal.Rptr.2d 125]
Morrison Knudsen Corp. v. Hancock, Rothert & Bunshoft, LLP (1999) 69 Cal.App.4th 223 [81 Cal.Rptr.2d 425]
Forrest v. Baeza (1997) 58 Cal.App.4th 65 [67 Cal.Rptr.2d 857]
Metro-Goldwyn-Mayer, Inc. v. Tracinda Corp. (1995) 36 Cal.App.4th 1832 [43 Cal.Rptr.2d 327]
Flatt v. Superior Court (1994) 9 Cal.4th 275 [36 Cal.Rptr.2d 537]
Elan Transdermal Limited v. Cygnus Therapeutic Systems (N.D. Cal. 1992) 809 F.Supp. 1383
In re Marriage of Zimmerman (1993) 16 Cal.App. 4th 556 [20 Cal.Rptr.2d 132]
Merle Norman Cosmetics, Inc. v. U.S. District Court (9th Cir. 1988) 856 F.2d 98
Trust Corp. of Montana v. Piper Aircraft Corp. (1983) 701 F.2d 85, 87
Trone v. Smith (9th Cir. 1980) 621 F.2d 994, 998
Cord v. Smith (9th Cir. 1964) 338 F.2d 516
In re Airport Car Rental Antitrust Litigation (N.D. Cal. 1979) 470 F. Supp. 495
Sheffield v. State Bar (1943) 22 Cal.2d 627 [140 P.2d 374]
Galbraith v. State Bar (1933) 218 Cal. 329 [23 P.2d 291]
Rosenfeld Construction Co., Inc. v. Superior Court (1991) 235 Cal.App.3d 566
In re Complex Asbestos Litigation (1991) 232 Cal.App.3d 572 [283 Cal.Rptr. 732]
H.F. Ahmanson & Co. v. Salomon Brothers, Inc. (1991) 229 Cal.App.3d 1445 [280 Cal.Rptr. 614]
Dill v. Superior Court (1984) 158 Cal.App.3d 301
Global Van Lines v. Superior Court (1983) 144 Cal.App.3d 483 [192 Cal.Rptr. 609]
Yorn v. Superior Court (1979) 90 Cal.App.3d 669 [153 Cal.Rptr. 295]

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- Goldstein v. Lees (1975) 46 Cal.App.3d 614 [120 Cal.Rptr. 253]
- Jacuzzi v. Jacuzzi Bros. (1963) 218 Cal.App.2d 24 [32 Cal.Rptr. 188]
- Grove v. Grove Valve & Regulator Co. (1963) 213 Cal.App.2d 646 [29 Cal.Rptr. 150]
- presumption of the exchange of confidential information
- People ex rel. Dept. of Corporations v. Speedee Oil Change Systems (1999) 20 Cal.4th 1135 [86 Cal.Rptr.2d 816]
- Flatt v. Superior Court (1994) 9 Cal.4th 275 [36 Cal.Rptr.2d 537]
- City National Bank v. Adams (2002) 96 Cal.App.4th 315 [117 Cal.Rptr.2d 125]
- Adams v. Aerojet General Corp. (2001) 86 Cal.App.4th 1324 [104 Cal.Rptr.2d 116]
- H.F. Ahmanson & Co. v. Salomon Brothers, Inc. (1991) 229 Cal.App.3d 1445 [280 Cal.Rptr. 614]
- Global Van Lines, Inc. v. Superior Court (1983) 144 Cal.App.3d 483 [192 Cal.Rptr. 609]
- CAL 1998-152, CAL 1992-126, LA 501 (1999)
- between the cases
- Kearns v. Fred Lavery Porsche Audi Co. (C.A. Fed. 1984) 745 F.2d 600, 603
- factors considered by the court
- San Gabriel Basin Water Quality Authority v. Aerojet-General Corp. (C.D. Cal. 2000) 105 F.Supp.2d 1095
- Dieter v. Regents of the University of California (E.D. Cal. 1997) 963 F.Supp. 908
- City National Bank v. Adams (2002) 96 Cal.App.4th 315 [117 Cal.Rptr.2d 125]
- Frazier v. Superior Court (Ames) (2002) 97 Cal.App.4th 23 [118 Cal.Rptr.2d 129]
- Adams v. Aerojet-General Corp. (2001) 86 Cal.App.4th 1324 [104 Cal.Rptr.2d 116]
- motion to disqualify must be based on application of substantial relationship test
- Rosenfeld Construction Co., Inc. v. Superior Court (1991) 235 Cal.App.3d 566
- no substantial relationship found
- San Gabriel Basin Water Quality Authority v. Aerojet-General Corp. (C.D. Cal. 2000) 105 F.Supp.2d 1095
- Dieter v. Regents of the University of California (E.D. Cal. 1997) 963 F.Supp. 908
- Merle Norman Cosmetics, Inc. v. United States District Court (9th Cir. 1988) 856 F.2d 98
- Adams v. Aerojet-General Corp. (2001) 86 Cal.App.4th 1324 [104 Cal.Rptr.2d 116]
- H.F. Ahmanson & Co. v. Salomon Brothers, Inc. (1991) 229 Cal.App.3d 1445 [280 Cal.Rptr. 614]
- substantial relationship test inapplicable
- San Gabriel Basin Water Quality Authority v. Aerojet-General Corp. (C.D. Cal. 2000) 105 F.Supp.2d 1095
- where disqualification for former representation would be futile
- Christensen v. United States District Court (9th Cir. 1988) 844 F.2d 694
- vicarious disqualification of a firm not required because of the timely and effective screening of the tainted attorney
- County of Los Angeles v. United States District Court (Forsyth) (9th Cir. 2000) 223 F.3d 990
- San Gabriel Basin Water Quality Authority v. Aerojet-General Corp. (C.D. Cal. 2000) 105 F.Supp.2d 1095
- Substitution of counsel
- court abused discretion in denying criminal defendant's motion to appoint substitute counsel without first conducting proper inquiry
- U.S. v. Adelzo-Gonzalez (9th Cir. 2001) 268 F.3d 772
- Successive representation
- Frazier v. Superior Court (Ames) (2002) 97 Cal.App.4th 23 [118 Cal.Rptr.2d 129]
- Suit against client
- Santa Clara County Counsel Attorneys Assn. v. Woodside (1994) 7 Cal.4th 525
- Support action, represent wife, former client in divorce, after representing former husband in unrelated matter
- SF 1973-19
- Tactical abuse of disqualification proceeding
- County of Los Angeles v. United States District Court (Forsyth) (9th Cir. 2000) 223 F.3d 990
- In re Complex Asbestos Litigation (1991) 232 Cal.App.3d 572 [283 Cal.Rptr. 732]
- Bell v. 20th Century Ins. Co. (1989) 212 Cal.App.3d 194
- Gregori v. Bank of America (1989) 207 Cal.App.3d 291 [254 Cal.Rptr. 853]
- Taking business clientele of a former client
- David Welch Company v. Erskine and Tully (1988) 203 Cal.App.3d 884 [250 Cal.Rptr. 339]
- Three strikes cases
- *Garcia v. Superior Court (1995) 40 Cal.App.4th 552 [46 Cal.Rptr.2d 913]
- SD 1995-1
- Undue influence
- absent independent legal advice in attorney/client transaction
- Gold v. Greenwald (1966) 247 Cal.App.2d 296 [55 Cal.Rptr. 660]
- advantage to attorney when client disadvantaged
- Plixweve Aircraft Co. v. Greenwood (1943) 61 Cal.App.2d 21 [141 P.2d 933]
- attorney as trustee, client as beneficiary
- Probate Code sections 15687, 16002, 16004, 21350 et. seq.
- attorney beneficiary of trust
- Bank of America v. Angel View Crippled Children's Foundation (1998) 72 Cal.App.4th 451 [85 Cal.Rptr.2d 117]
- attorney beneficiary of will
- Magee v. State Bar (1962) 58 Cal.2d 423 [24 Cal.Rptr. 839, 374 P.2d 807]
- burden on attorney
- to enforce fee agreement
- Ferrara v. La Sala (1960) 186 Cal.App.2d 263 [9 Cal.Rptr. 179]
- to prove arm's length transaction
- Gold v. Velkov (1955) 133 Cal.App.2d 622 [284 P.2d 890]
- to show transaction fair
- Estate of Witt (1926) 198 Cal. 407 [245 P.2d 197]
- Clark v. Millsap (1926) 197 Cal. 765, 783 [242 P.2d 918]
- McDonald v. Hewlett (1951) 102 Cal.App.2d 680 [228 P.2d 83]
- business dealings invalid
- Priester v. Citizens National etc. Bank (1955) 131 Cal.App.2d 314 [280 P.2d 835]
- business dealings with client
- Giovanazzi v. State Bar (1980) 28 Cal.3d 465 [169 Cal.Rptr. 581]
- Felton v. Le Breton (1891) 92 Cal. 457, 469 [28 P. 490]
- courts view attorney/client transactions with suspicion
- Stieglitz v. Settle (1920) 50 Cal.App. 581 [195 P. 705]
- must fully inform client
- Thornley v. Jones (1929) 96 Cal.App. 219 [274 P. 93]
- must show validity of contract
- Walter v. Broglio (1975) 52 Cal.App.3d 400 [125 Cal.Rptr. 123]
- Swanson v. Hempstead (1944) 64 Cal.App.2d 681 [149 P.2d 404]
- unequal relationship with
- Blattman v. Gadd (1931) 112 Cal.App. 76, 92 [296 P. 681]
- confidence and trust in attorney induced client to sell real property at disadvantageous price
- Hicks v. Clayton (1977) 67 Cal.App.3d 251 [136 Cal.Rptr. 512]
- contingent fee contract entered under free will
- Rader v. Thrasher (1962) 57 Cal.2d 244 [18 Cal.Rptr. 736, 368 P.2d 360]

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- contract without consideration to client
 - Denton v. Smith (1951) 101 Cal.App.2d 841 [226 P.2d 723]
- overreaching due to client's ignorance of legal matters
 - use of confession of judgment against client
 - Hulland v. State Bar (1972) 8 Cal.3d 440, 450 [105 Cal.Rptr. 152, 503 P.2d 608]
- presumption of undue influence is evidence
 - Giovanazzi v. State Bar (1980) 28 Cal.3d 465 [169 Cal.Rptr. 581, 619, P.2d 1005]
 - Bradner v. Vasquez (1954) 43 Cal.2d 147, 153 [272 P.2d 11]
 - Ball v. Posey (1986) 176 Cal.App.3d 1209, 1214 [222 Cal.Rptr. 746]
- prima facie case
 - Metropolis, etc. Savings Bank v. Monnier (1915) 169 Cal. 592, 598 [147 P. 265]
- profits from transaction with client
 - Hicks v. Clayton (1977) 67 Cal.App.3d 251 [136 Cal.Rptr. 512]
- recording deed
 - Rebmann v. Major (1970) 5 Cal.App.3d 684 [85 Cal.Rptr. 399]
- unfair advantage to attorney
 - Carlson v. Lantz (1929) 208 Cal. 134 [280 P. 531]
- Vicarious disqualification of entire law firm [See Disqualification.]
 - Atasi Corp. v. Seagate Technology (9th Cir. 1988) 847 F.2d 826
 - W.L. Gore & Assoc. v. Intern. Medical Prosthetics (1984) 745 F.2d 1463, 1466-1467
 - San Gabriel Basin Water Quality Authority v. Aerojet-General Corp. (C.D. Cal. 2000) 105 F.Supp.2d 1095
 - Allen v. Academic Games League of America (1993) 831 F.Supp. 785
 - Frazier v. Superior Court (Ames) (2002) 97 Cal.App.4th 23 [118 Cal.Rptr.2d 129]
 - In re Complex Asbestos Litigation (1991) 232 Cal.App.3d 572 [283 Cal.Rptr. 732]
 - Klein v. Superior Court (1988) 148 Cal.App.3d 894
 - William H. Raley Co. v. Superior Court (1983) 149 Cal.App.3d 1042, 1048-1049 [197 Cal.Rptr. 232]
 - CAL 1998-152, LA 501 (1999)
- attorney and associates involved in matters
 - Global Van Lines v. Superior Court (1983) 144 Cal.App.3d 483, 490 [192 Cal.Rptr. 609]
- double imputation of confidential knowledge
 - Frazier v. Superior Court (Ames) (2002) 97 Cal.App.4th 23 [118 Cal.Rptr.2d 129]
- hardship to client
 - County of Los Angeles v. United States District Court (Forsyth) (9th Cir. 2000) 223 F.3d 990
 - San Gabriel Basin Water Quality Authority v. Aerojet-General Corp. (C.D. Cal. 2000) 105 F.Supp.2d 1095
 - Chambers v. Superior Court (1981) 121 Cal.App.3d 893, 899, 903 [175 Cal.Rptr. 575]
- not required because of the timely and effective screening of the tainted attorney
 - County of Los Angeles v. United States District Court (Forsyth) (9th Cir. 2000) 223 F.3d 990
 - San Gabriel Basin Water Quality Authority v. Aerojet-General Corp. (C.D. Cal. 2000) 105 F.Supp.2d 1095
- not required when attorney at law firm covered depositions for independent counsel
 - Frazier v. Superior Court (Ames) (2002) 97 Cal.App.4th 23 [118 Cal.Rptr.2d 129]
- not required where attorney never performed services for former client of attorney's former firm
 - San Gabriel Basin Water Quality Authority v. Aerojet-General Corp. (C.D. Cal. 2000) 105 F.Supp.2d 1095
 - Dieter v. Regents of the University of California (E.D. Cal. 1997) 963 F.Supp. 908
 - Adams v. Aerojet-General Corp. (2001) 86 Cal.App.4th 1324 [104 Cal.Rptr.2d 116]
- where "of counsel" attorney and law firm represented opposing parties and where "of counsel" attorney obtained confidential information and provided legal services to client
 - People ex rel. Dept. of Corporations v. Speedee Oil Change Systems (1999) 20 Cal.4th 1135 [86 Cal.Rptr.2d 816]
- Voluntary withdrawal
 - People ex rel Deukmejian v. Brown (1981) 29 Cal.3d 150, 157 [172 Cal.Rptr. 478, 624 P.2d 1206]
- prior relationship with adverse party
 - Quaglin v. Quaglin (1979) 88 Cal.App.3d 542, 550 [152 Cal.Rptr. 47]
- Waiver of
 - both confidentiality and conflict of interest
 - Bankruptcy of Mortgage & Realty Trust (1996) 195 B.R. 740
 - Zador Corp. v. Kwan (1995) 31 Cal.App.4th 1285 [37 Cal.Rptr.2d 754]
 - CAL 1998-152, CAL 1989-115
 - by criminal defendant
 - People v. Peoples (1997) 51 Cal.App.4th 1513 [60 Cal.Rptr.2d 173]
 - Alcocer v. Superior Court (1988) 206 Cal.App.3d 951
 - court has discretion to deny substitution because of serious potential conflict
 - Wheat v. U.S. (1988) 486 U.S. 153 [108 S.Ct. 1692]
 - no valid waiver found
 - Wheat v. U.S. (1988) 486 U.S. 153 [103 S.Ct. 1692]
 - People v. Peoples (1997) 51 Cal.App.4th 1592 [60 Cal.Rptr.2d 173]
 - People v. Easley (1988) 46 Cal.3d 712 [250 Cal.Rptr. 855]
- Welfare proceeding
 - conflict between state and child
 - disclosure by district attorney to court
 - CAL 1977-45
- Will
 - attorney as beneficiary of trust
 - Bank of America v. Angel View Crippled Children's Foundation (1998) 72 Cal.App.4th 451 [85 Cal.Rptr.2d 117]
 - attorney beneficiary of holographic will
 - Maltman v. State Bar (1987) 43 Cal.3d 924
 - attorney drafts will making secretary executor, then represents executor for fee
 - LA 382 (1979)
 - attorney who drafted was later employed as attorney for executor
 - Estate of Effron (1981) 117 Cal.App.3d 915, 930
- Will drafting
 - attorney as beneficiary under terms of gift instrument
 - Probate Code sections 15687, 21350 et. seq.
 - Bank of America v. Angel View Crippled Children's Foundation (1998) 72 Cal.App.4th 451 [85 Cal.Rptr.2d 117]
 - Magee v. State Bar (1962) 58 Cal.2d 423 [24 Cal.Rptr. 839, 374 P.2d 807]
 - attorney drafts will making secretary executor, then represents executor for fee
 - LA 382 (1979)
 - counsel for organization drafts for those leaving money to organization
 - LA(l) 1966-17, LA 428 (1984)
 - draft
 - when named beneficiary, executor, etc.
 - LA(l) 1963-4
 - prosecution witness is former client of attorney
 - SD 1974-15
- Withdrawal [See Withdrawal.]
 - client prevents exercise of independent professional judgment
 - SD 1972-1
 - probate matter, from
 - where lawyer defends executor in action brought by decedent's spouse to whom lawyer also giving legal advice

CONSERVATORSHIP PROCEEDINGS

LA 23 (1923)
reasons for
Aceves v. Superior Court (1996) 51 Cal.App.4th 584 [59 Cal.Rptr.2d 280]
Uhl v. Municipal Court (1974) 37 Cal.App.3d 526 [112 Cal.Rptr. 478]
representation of co-defendants
CAL 1970-22
Witness
attorney acting as
Industrial Indem. Co. v. Great American Insurance Co. (1977) 73 Cal.App.3d 529, 538
Grove v. Grove Valve & Regulator Co. (1963) 213 Cal.App.2d 646, 655, 657-658 [29 Cal.Rptr. 150]
-against former client
LA 75 (1934)
-anticipated testimony may be sufficient to disqualify attorney and/or law firm
Comden v. Superior Court (1978) 20 Cal.3d 906 [145 Cal.Rptr. 9, 576 P.2d 971]
-called by defense while member of district attorney's or attorney general's staffs
*People v. Superior Court (Hollenbeck) (1978) 84 Cal.App.3d 491 [148 Cal.Rptr. 704]
--consent of client
Reynolds v. Superior Court (1986) 177 Cal.App.3d 1021 [223 Cal.Rptr. 258]
-called by opposition, testimony not prejudicial to client
Rule 2-111(A)(4),(5), Rules of Professional Conduct (operative until May 26, 1989)
Rule 5-210, Rules of Professional Conduct (operative as of May 27, 1989)
Graphic Process Co. v. Superior Court (1979) 95 Cal.App.3d 43 [156 Cal.Rptr. 841]
Brown v. De Rugeris (1979) 92 Cal.App.3d 895 [155 Cal.Rptr. 301]
--United States Attorney's staff
U.S. v. Prantil (1985) 756 F.2d 759
-for impeachment purposes
Noguchi v. Civil Service Comm. (1986) 187 Cal.App.3d 1521 [232 Cal.Rptr. 394]
client
-former
--witness
---against present client
McPhearson v. Michaels Company (2002) 96 Cal.App.4th 843 [117 Cal.Rptr.2d 489]
Gilbert v. National Corporation for Housing Partnerships (1999) 71 Cal.App.4th 1240 [84 Cal.Rptr. 204]
---in criminal proceeding
CAL 1980-52
-witness
--against present client
---in criminal proceeding
CAL 1979-49
--former co-defendant as key witness for the prosecution
United States v. Henke (9th Cir. 2000) 222 F.3d 633
criminal case
People v. Hernandez (1991) 231 Cal.App.3d 1376
People v. Goldstein (1982) 130 Cal.App.3d 1024 [182 Cal.Rptr. 207]
defense attorney consults in confidence one defendant who becomes witness against other co-defendants
-attorney may not represent other co-defendants
LA 366 (1977)

CONSERVATORSHIP PROCEEDINGS

Attorney initiated conservatorship proceedings, absent client consent
CAL 1989-112, LA 450 (1988), OR 95-002, SD 1978-1, SF 1999-2
Compared with child dependency proceedings
LA 504 (2000)
Conservatee cannot obligate conservatorship estate for payment of attorney's fees
Young, etc. v. Thomas (1989) 210 Cal.App.3d 812 [258 Cal.Rptr. 574]
Constructive attorney-client relationship not formed between conservatee and her conservator's designated attorney
In re Lee G. (1991) 1 Cal.App.4th 17 [1 Cal.Rptr.2d 375]
Fees
value of an estate in an elder abuse case is a factor in setting fees and is consistent with CRPC 4-200
Conservatorship of Levitt (2001) 93 Cal.App.4th 544 [113 Cal.Rptr.2d 294]
CONSULTATION WITH CLIENT [See Attorney-client relationship.]
CONTACT WITH JURORS
Rule 7-106, Rules of Professional Conduct (operative until May 26, 1989)
Rule 5-320, Rules of Professional Conduct (operative as of May 27, 1989)
CAL 1988-100, CAL 1987-95, CAL 1976-39
CONTACT WITH OFFICIALS [See Judges. Judicial officials.]
Communications with
Rules 7-103 and 7-108, Rules of Professional Conduct (operative until May 26, 1989)
Rules 2-100 and 5-300, Rules of Professional Conduct (operative as of May 27, 1989)
CONTACT WITH WITNESSES [See Witnesses, contact with.]
Rule 7-107, Rules of Professional Conduct (operative until May 26, 1989)
Rule 5-310, Rules of Professional Conduct (operative as of May 27, 1989)
With treating physician of opposing party
CAL 1975-33
SD 1983-9
CONTEMPT OF COURT
Code of Civil Procedure sections 178, 1209
Attorney misbehavior in office
Code of Civil Procedure section 1209, par. 3
Criminal
attorney held in
-judge other than one bringing charges must try
In re Martin (1977) 71 Cal.App.3d 472 [139 Cal.Rptr. 451]
-notice to attorney required
In re Baroldi (1987) 189 Cal.App.3d 101 [234 Cal.Rptr. 286]
Due process requires that reasonable notice be given as to the charges and the opportunity to be heard
Little v. Kern County Superior Court (2002) 294 F.3d 1075
Impugning integrity of prosecutor and legal profession
Hanson v. Superior Court of Siskiyou County (2001) 91 Cal.App.4th 75 [109 Cal.Rptr.2d 782]
Judicial officers
power to punish for contempt
Code of Civil Procedure section 178
Fine v. Superior Court (2002) 97 Cal.App.4th 651 [119 Cal.Rptr.2d 376]
Mitigation
apology
In re Baroldi (1987) 189 Cal.App.3d 101 [234 Cal.Rptr. 286]
No penalty for advising client-witness to refuse to produce material demanded by a subpoena duces tecum based on 5th Amendment
Maness v. Myers (1974) 419 U.S. 449 [95 S.Ct. 584]

CONTINGENT FEE

CONTINGENT FEE [See Fee.]

Business and Professions Code section 6147
"Additional fees" authorization could not be a contingency fee agreement because of failure to comply with Business and Professions Code section 6147, subdivision (a)
In the Matter of Silverton (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 252
Adequacy of consideration is to be determined at time of contract formation
Rader v. Thrasher (1962) 57 Cal.2d 244, 252 [18 Cal.Rptr. 736, 368 P.2d 360]
Advancement of funds
Rule 4-210, California Rules of Professional Conduct (operative as of May 27, 1989)
LA 499 (1999), LA 106 (1937)
Alimony, overdue
LA 275 (1963), LA 263 (1959), LA(l) 1969-1, SF 1971-1
Award of attorney fees statutes may not allow a computation which increases the award to account for the client's retention of attorneys on a contingent fee basis
City of Burlington v. Dague (1992) 505 U.S. 557 [112 S.Ct. 2638]
Bankruptcy court's award of fees based on a pre-approved contingent fee agreement
In re Reimers (9th Cir. 1992) 972 F.2d 1127
Child support, overdue
CAL 1983-72
LA 275 (1963), LA 263 (1959)
Civil rights
fee arrangement allowed providing fees in excess of court awarded fee
Venegas v. Mitchell (1990) 495 U.S. 82 [110 S.Ct. 1679]
Client discharges attorney
quantum meruit
Hensel v. Cohen (1984) 155 Cal.App.3d 563 [202 Cal.Rptr. 85]
Collections
LA 275 (1963), LA 263 (1959)
percentage of amount charged creditor
LA 4 (1917)
Compensation for actual, necessary services under bankruptcy law
Yermakov v. Fitzsimmons and Weldon (9th Cir. 1983) 718 F.2d 1465
Contract
Business and Professions Code section 6147
attorney abandonment of case
-quantum meruit
Hensel v. Cohen (1984) 155 Cal.App.3d 563 [202 Cal.Rptr. 85]
--between city and private attorney
People ex rel. Clancy v. Superior Court (1985) 39 Cal.3d 740 [218 Cal.Rptr. 24]
Business and Professions Code section 6147 applies only to fee agreements with litigation plaintiffs and not to clients generally who have non-litigation matters
Franklin v. Appel (1992) 8 Cal.App.4th 875 [10 Cal.Rptr.2d 759]
city attorney, private contingency contract
People ex rel. Clancy v. Superior Court (1985) 39 Cal.3d 740 [218 Cal.Rptr. 24]
discharged attorney limited to quantum meruit, premise
Spies v. American Bus Lines (1984) 158 Cal.App.3d 206, 216 [204 Cal.Rptr. 531]
evaluated as of time of making
Alderman v. Hamilton (1988) 205 Cal.App.3d 1033 [252 Cal.Rptr. 845]
CAL 1994-135
hybrid, hourly and contingent
SF 1999-1
interest charged on advanced costs from payment until billing
LA 499 (1999)

recovery is in the form of an annuity
CAL 1987-94
-attorney entitled to percentage of periodic payments
Sayble v. Feinman (1978) 76 Cal.App.3d 509 [142 Cal.Rptr. 895]
-attorney entitled to percentage of present value of periodic payments award best represented by cost of annuity
Schneider v. Kaiser Foundation Hospitals (1989) 215 Cal.App.3d 1311
-medical malpractice action under Business and Professions Code section 6146
Schneider v. Kaiser Foundation Hospitals (1989) 215 Cal.App.3d 1311
offset recovery not actually received by client
LA 458
strictly construed against attorney
Alderman v. Hamilton (1988) 205 Cal.App.3d 1033 [252 Cal.Rptr. 845]
voidable at option of client if Business and Professions Code section 6147(b) not complied with
Franklin v. Appel (1992) 8 Cal.App.4th 875 [10 Cal.Rptr.2d 759]
Alderman v. Hamilton (1988) 205 Cal.App.3d 1033 [252 Cal.Rptr. 845]
attorney may pay litigation costs for clients if representing on a charitable basis
SF 1974-4
lenders to attorneys for percentage of settlement
SF 1981-1
recoverable only in event of favorable settlement
SF 1985-2
recovery of, based upon occurrence of contingency
Kroff v. Larson (1985) 167 Cal.App.3d 857 [213 Cal.Rptr. 526]
SF 1985-2
Costs
recovery of
LA 495 (1998)
Court award rebate to client
LA 447 (1987)
Court not bound by contract for
In re Marriage of McNeill (1984) 160 Cal.App.3d 548, 561 fn. 8 [206 Cal.Rptr. 641]
Deceased attorney
Estate of Linnick (1985) 171 Cal.App.3d 752 [217 Cal.Rptr. 552]
Determination of
based on offset recovery which client does not actually receive
LA 458
cannot be determined in summary or ex parte proceedings
Overell v. Overell (1937) 18 Cal.App.2d 499 [64 P.2d 483]
quote specific amount for certain services
SD 1976-4
Discharge
entitled to recover reasonable value of services rendered
In re Aesthetic Specialties, Inc. (Bkrptcy.App.Cal. 1984) 37 B.R. 679
quantum meruit
Fracasse v. Brent (1972) 6 Cal.3d 784 [100 Cal.Rptr. 385]
Weiss v. Marcus (1975) 51 Cal.App.3d 590 [124 Cal.Rptr. 297]
Dissolution
CAL 1983-72
Divorce
award of legal fees tied to division of community property
In re Marriage of McNeill (1984) 160 Cal.App.3d 548, 559-560 [206 Cal.Rptr. 641]
discipline not imposed for attorney entering into
Coviello v. State Bar (1955) 45 Cal.2d 57, 59-61 [286 P.2d 357]

CONTINGENT FEE

- not violative of public policy
 - Krieger v. Bulpitt (1953) 40 Cal.2d 97 [251 P.2d 673]
 - In re Marriage of Gonzales (1975) 51 Cal.App.3d 340 [124 Cal.Rptr. 278]
 - Mahoney v. Sharff (1961) 191 Cal.App.2d 191 [12 Cal.Rptr. 575]
 - CAL 1983-72
- void as against public policy
 - Hill v. Hill (1943) 23 Cal.2d 82, 92 [142 P.2d 417, 421]
 - Newman v. Freitas (1900) 129 Cal. 283 [61 P. 907]
 - Coons v. Kary (1968) 263 Cal.App.2d 650, 653-654 [69 Cal.Rptr. 712]
 - Theisen v. Keough (1931) 115 Cal.App. 353, 356 [1 P.2d 1015]
 - Ayres v. Lipschutz (1924) 68 Cal.App. 134, 139 [228 P. 720]
 - SF 1971-1, LA 188 (1952)
- when no other recovery
 - In re Marriage of McNeill (1984) 160 Cal.App.3d 548, 561 fn. 8 [206 Cal.Rptr. 641]
- Effect of discharge or withdrawal
 - Hensel v. Cohen (1984) 155 Cal.App.3d 563 [202 Cal.Rptr. 85]
- Estate
 - LA 144 (1943)
- Failure to comply with Business and Professions Code section 6147, subdivision (a) prevented an authorization for "additional fees" from being a contingency fee agreement
 - In the Matter of Silverton (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 252
- Favored in California
 - Newman v. Freitas (1900) 129 Cal. 283, 292 [61 P. 907]
 - Eaton v. Thieme (1936) 15 Cal.App.2d 458 [59 P.2d 638]
- Fees received before contingency fee reduced to a writing
 - In the Matter of Nunez (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 196
- Fifty percent of recovery contingency fee
 - In the Matter of Nunez (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 196
- Filiation action
 - void as against public policy
 - Kyne v. Kyne (1943) 60 Cal.App.2d 326 [140 P.2d 886]
- For public defender
 - People v. Barboza (1981) 29 Cal.3d 375 [173 Cal.Rptr. 458, 627 P.2d 188]
- Former shareholder of law firm has no right on interpleader to contingency fee from cases which shareholder settled while working for firm
 - City of Morgan Hill v. Brown (1999) 71 Cal.App.4th 1114 [84 Cal.Rptr.2d 361]
- From insurer, based on medical expenses recovered, for protecting insurer's lien on recovery of its expenses
 - LA 352 (1976)
- Health care provider
 - representing person seeking damages against
 - Business and Professions Code section 6146
- Hybrid, hourly and contingent
 - SF 1999-1
- Insist upon
 - LA(l) 1970-11
- Lay person hired on basis of
 - expert
 - LA 45 (1927)
 - paralegal receives bonuses
 - LA 457
 - secretary
 - LA 222 (1954), LA 190 (1952)
- Malpractice
 - attorney's failure to comply with legislative mandates under Business and Professions Code section 6146 et seq. may give rise to a cause of action for professional negligence
 - Schultz v. Harney (1994) 27 Cal.App.4th 1611
 - In the Matter of Harney (Review Dept. 1994) 3 Cal.State Bar Ct. Rptr. 266
- Medical injury tort claims
 - Business and Professions Code section 6146
 - periodic payments to plaintiff
 - attorney entitled to percentage of present value of periodic payments award best represented by cost of annuity
 - Schneider v. Kaiser Foundation Hospitals (1989) 215 Cal.App.3d 1311
- Medical malpractice action
 - limitation on amount
 - Business and Professions Code section 6146
 - federal tort claims act preempts California Business and Professions Code section 6146 fee limitation
 - Jackson v. United States (9th Cir. 1989) 881 F.2d 707
 - CAL 1987-94
 - fee in excess of MICRA limitations may be pursued if MICRA causes of action are brought together with non-MICRA causes of action
 - Barris v. County of Los Angeles (1997) 60 Cal.App.4th 471 [70 Cal.Rptr.2d 281]
 - Waters v. Bourhis (1985) 40 Cal.3d 424
 - *Matter of Harney (Review Dept. 1995) 3 Cal. State Bar Ct. Rptr. 266
 - medical-legal consulting firms may contract for a contingent fee
 - Ojeda v. Sharp Cabrillo Hospital (1992) 8 Cal.App.4th 1
 - test for determining attorney fees based on periodic payments
 - Mai Chi Nguyen, A Minor v. Los Angeles County Harbor/UCLA Medical Center (1995) 40 Cal.App.4th 1433 [48 Cal.Rptr.2d 301]
- Minors' compromise
 - Probate Code sections 3500 et seq., 3600 et seq.
 - Law Offices of Stanley J. Bell v. Shine, Browne & Diamond (1995) 36 Cal.App.4th 1011 [43 Cal.Rptr.2d 717]
 - Schultz v. Harney (1994) 27 Cal.App.4th 1611 [33 Cal.Rptr.2d 276]
 - trial court has jurisdiction to divide fees between prior and current attorneys as part of settlement approval
 - Padilla v. McClellan (2001) 93 Cal.App.4th 1100 [113 Cal.Rptr.2d 680]
- Modification of contract
 - Vella v. Hudgins (1984) 151 Cal.App.3d 515 [198 Cal.Rptr. 725]
 - Baron v. Mare (1975) 47 Cal.App.3d 304 [120 Cal.Rptr. 675]
- Notice of lien
 - Hansen v. Haywood (1986) 186 Cal.App.3d 350 [230 Cal.Rptr. 580]
- Offset recovery
 - LA 458
- Paid to expert witness
 - CAL 1984-79
- Patent prosecution
 - LA 507
- Paternity action
 - void as against public policy
 - Kyne v. Kyne (1943) 60 Cal.App.2d 326 [140 P.2d 886]
- Plaintiff
 - agreement voidable at option of, where attorney fails to comply with Business and Professions Code section 6147
 - Business and Professions Code section 6147(b)
 - terms of written contract
 - Business and Professions Code section 6147(a)(1)-(5)
 - workers' compensation
 - exception for requirements of written contract
 - Business and Professions Code section 6147(c)
 - written contract and terms
 - workers' compensation exception
 - Business and Professions Code section 6147(c)
 - written contract to represent
 - Business and Professions Code section 6147(a)(1)
 - Presumptively invalid if attorney does not explain and client does not understand

CONTRACT

- Denton v. Smith (1951) 101 Cal.App.2d 841 [226 P.2d 723]
LA 458
- Quantum meruit
- Fracasse v. Brent (1972) 6 Cal.3d 784 [100 Cal.Rptr. 385, 494 P.2d 9]
- Spire v. American Bus Lines (1984) 158 Cal.App.3d 206 [204 Cal.Rptr. 531]
- Kallen v. Delug (1984) 157 Cal.App.3d 940 [203 Cal.Rptr. 879]
- Hensel v. Cohen (1984) 155 Cal.App.3d 563 [202 Cal.Rptr. 85]
- Pearlmuter v. Alexander (1979) 97 Cal.App.3d Supp. 16 [158 Cal.Rptr. 762]
SF 1989-1
division of fees when amount allowed is insufficient for quantum meruit claims of past and existing counsel
- Spire v. American Bus Lines (1984) 158 Cal.App.3d 206, 216-217 [204 Cal.Rptr. 531]
incapacitation of attorney who was associated (became judge) entitles firm to quantum meruit fees (formula for determination of fees)
- Cazares v. Saenz (1989) 208 Cal.App.3d 279 [256 Cal.Rptr. 209]
voluntary withdrawal of counsel without cause
- Estate of Falco (1986) 188 Cal.App.3d 1004 [233 Cal.Rptr. 807]
- Reasonableness of
under 42 U.S.C. § 406(b) (social security benefits)
- Gisbrecht v. Barnhart (2002) 535 U.S. 789 [122 S.Ct. 1817; 152 L.Ed.2d 996]
Glendora Community Redevelopment Agency v. Demeter (1984) 155 Cal.App.3d 465
- Reasonableness of in light of legislative activity
- Andre v. City of West Sacramento (2001) 92 Cal.App.4th 532 [111 Cal.Rptr.2d 891]
Salton Bay Marina, Inc. v. Imperial Irrigation Dist. (1985) 172 Cal.App.3d 914, 952 [218 Cal.Rptr. 839]
- Rebate portion of fee to client
LA 447 (1987)
- Recovery is in the form of an annuity
attorney entitled to percentage of periodic payments
- Sayble v. Feinman (1978) 76 Cal.App.3d 509 [142 Cal.Rptr. 895]
- Referral fee, duty to pay on occurrence of contingency
- Mason v. Levy & Van Bourg (1978) 77 Cal.App.3d 60 [143 Cal.Rptr. 389]
- Strictly construed against the attorney
- Alderman v. Hamilton (1988) 205 Cal.App.3d 1033 [252 Cal.Rptr. 845]
LA 499 (1999)
- Structured settlement
- Sayble v. Feinman (1978) 76 Cal.App.3d 509 [142 Cal.Rptr. 895]
CAL 1987-94
medical malpractice action under Business and Professions Code section 6146
- Schneider v. Kaiser Foundation Hospitals (1989) 215 Cal.App.3d 1311
- Validity
- Estate of Kerr (1966) 63 Cal.2d 875 [48 Cal.Rptr. 707, 409 P.2d 931]
Herron v. State Bar (1961) 56 Cal.2d 202 [14 Cal.Rptr. 294, 363 P.2d 310]
Gelfand, Greer, Popko & Miller v. Shivener (1973) 30 Cal.App.3d 364 [105 Cal.Rptr. 445]
Estate of Raphael (1951) 103 Cal.App.2d 792 [230 P.2d 436]
Estate of Schnell (1947) 82 Cal.App.2d 170 [185 P.2d 854]
Swanson v. Hempstead (1944) 64 Cal.App.2d 681 [149 P.2d 404]
Eaton v. Thieme (1936) 15 Cal.App.2d 458 [59 P.2d 638]
evaluated as of time of making
- Alderman v. Hamilton (1988) 205 Cal.App.3d 1033 [252 Cal.Rptr. 845]
CAL 1994-135
- Voidable
at option of plaintiff where provisions of Business and Professions Code section 6147 not complied with
Business and Professions Code section 6147(b)
Franklin v. Appel (1992) 8 Cal.App.4th 875 [10 Cal.Rptr.2d 759]
Alderman v. Hamilton (1988) 205 Cal.App.3d 1033 [252 Cal.Rptr. 845]
- Workers' compensation cases
exempted from provisions for written fee contract
Business and Professions Code section 6147(c)
- CONTRACT** [See Contract for employment, fee.]
Changing terms, pro bono to paying
SD 1983-6
- Client must understand
Denton v. State Bar (1951) 101 Cal.2d [226 P.2d 723]
In the Matter of Nunez (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 196
- Client waiver of attorney violation of Rules of Professional Conduct
CAL 1988-105
- Construe contract for prospective client of corporations
when attorney acting as business agent for corporation
CAL 1968-13
- Damages in contract causes of actions between partners of a dissolved partnership
equitable maxim to "do equity" does not preclude the recovery of damages
*Dickson, Carlson & Campillo v. Pole (2000) 83 Cal.App.4th 436 [99 Cal.Rptr.2d 678]
- Draft for
both parties
SF 1973-26
transaction between son and other party
SF 1973-26
- Effect on contingent fees of attorney withdrawal
Hensel v. Cohen (1984) 155 Cal.App.3d 563 [202 Cal.Rptr. 85]
- For reporter's services
no intention to pay
CAL 1979-48
- CONTRACT ATTORNEY**
Compensation paid to non-employee attorney hired to render services to firm's client
CAL 1994-138, LA 473 (1993), LA 503 (2000)
- Costs
Shaffer v. Superior Court (1995) 33 Cal.App.4th 993 [39 Cal.Rptr.2d 506]
- Non-lawyers compensated for placing "temporary" attorneys with law firm
CAL 1992-126
- Use of contract attorney, disclosure to client
CAL 1994-138, LA 473 (1993)
- CONTRACT FOR EMPLOYMENT** [See Attorney-client relationship.]
Business and Professions Code sections 6068(h), 6146, 6147
Code of Civil Procedure section 1021
Rule 2-107, Rules of Professional Conduct (operative until May 26, 1989)
Rule 4-200, Rules of Professional Conduct (operative as of May 27, 1989)
Macri v. Carson Tahoe Hospital (1966) 247 Cal.App.2d 63 [55 Cal.Rptr. 276]
Bradner v. Vasquez (1951) 102 Cal.App.2d 338 [227 P.2d 559]
LA 226 (1955)
Absent retainer agreement, quantum meruit
Spire v. American Bus Lines (1984) 158 Cal.App.3d 206, 216-217 [204 Cal.Rptr. 531]
- Agency relationship
Rosenthal v. Garner (1983) 142 Cal.App.3d 891 [191 Cal.Rptr. 300]
Agreement providing that attorney waives specified fees if client agrees not to accept a confidentiality clause in any settlement permitted if client retains the authority to settle the case without the lawyer's consent
LA 505 (2000)

CONTRACT FOR EMPLOYMENT

- Agreement to limit personal professional liability prohibited
Rule 6-102, Rules of Professional Conduct (operative until May 26, 1989)
Rule 3-400, Rules of Professional Conduct (operative effective May 27, 1989)
damages limitation also prohibited
LA 489 (1997)
- Appointment by court not a contract
Arnelle v. City and County of San Francisco (1983) 141 Cal.App.3d 693 [190 Cal.Rptr. 490]
- Arbitration fee
binding
-client contract conditioned on
Lawrence v. Walzer & Gabrielson (1989) 207 Cal.App.3d 1501 [256 Cal.Rptr. 6]
CAL 1981-56
binding private arbitration clause in attorney-client fee agreement not effective where client requested mandatory arbitration pursuant to State Bar rules for fee disputes
Alternative Systems, Inc. v. Carey (1998) 67 Cal.App.4th 1034 [79 Cal.Rptr.2d 567]
- Arbitration for professional liability of lawyer
Powers v. Dickson, Carlson & Campillo (1997) 54 Cal.App.4th 1102 [63 Cal.Rptr.2d 261]
LA 489 (1997)
client contract conditioned on
Lawrence v. Walzer & Gabrielson (1989) 207 Cal.App.3d 1501 [256 Cal.Rptr. 6]
CAL 1989-116, CAL 1977-47
- Authorization for attorney to keep any extra sums resulting from a compromise of the claims of medical care providers
In the Matter of Silverton (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 252
- Bankruptcy
In re Connolly (9th Cir. BAP 1999) 238 B.R. 475 [34 Bankr.Ct.Dec. 1219]
In re Hines (9th Cir. BAP 1998) 198 B.R. 769 [36 Collier Bankr.CAS2d 577]
- Business and Professions Code sections 6147 and 6148 may not contemplate the wide variety of possible fee arrangements between attorneys and clients but any revision or expansion of statutes should be left to the legislature and not the courts
Franklin v. Appel (1992) 8 Cal.App. 4th 875 [10 Cal.Rptr.2d 759]
- Contingent attorney's fee
domestic relations matter, discipline not imposed
Coviello v. State Bar (1955) 45 Cal.2d 57, 59-61 [286 P.2d 357]
evaluated as of time of making
Alderman v. Hamilton (1988) 205 Cal.App.3d 1033 [252 Cal.Rptr. 845]
CAL 1994-135
fees received before contingency fee reduced to a writing
In the Matter of Nunez (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 196
fifty percent of recovery contingency fee
In the Matter of Nunez (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 196
hybrid, hourly and
SF 1999-1
not violative of public policy
In re Marriage of Gonzales (1975) 51 Cal.App.3d 340 [124 Cal.Rptr. 278]
-client has no funds to pay
Krieger v. Bulpitt (1953) 40 Cal.2d 97 [251 P.2d 673]
-percentage of recovery for spouse in divorce action
Mahoney v. Sharff (1961) 191 Cal.App.2d 191 [12 Cal.Rptr. 575]
- strictly construed against the attorney
Alderman v. Hamilton (1988) 205 Cal.App.3d 1033 [252 Cal.Rptr. 845]
LA 499 (1999)
- to represent plaintiff
-terms of
Business and Professions Code section 6147(a)
-voidable at option of plaintiff where Business and Professions Code, § 6147 not complied with
Business and Professions Code section 6147(b)
void as against public policy
SF 1971-1
-divorce case
Ayres v. Lipschutz (1924) 68 Cal.App. 134, 139 [228 P. 720]
Newman v. Freitas (1900) 129 Cal. 283 [61 P. 907]
-examine factual background of each case
Hill v. Hill (1943) 23 Cal.2d 82, 92 [142 P.2d 417, 421]
-however, attorney entitled to reasonable value of his services
Coons v. Kary (1968) 263 Cal.App.2d 650, 653-654 [69 Cal.Rptr. 712]
Theisen v. Keough (1931) 115 Cal.App. 353, 356 [1 P.2d 1015]
- voidable
-at option of plaintiff where provisions of Business and Professions Code section 6147 not complied with
Business and Professions Code section 6147(b)
Franklin v. Appel (1992) 8 Cal.App.4th 875 [10 Cal.Rptr. 759]
Alderman v. Hamilton (1988) 205 Cal.App.3d 1033 [252 Cal.Rptr. 845]
- Costs
contract provision may require that the attorney advance all reasonable necessary costs
In the Matter of Nunez (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 196
interest charged on advanced costs from payment until billing
LA 499 (1999)
- Criminal defense services
People v. Barboza (1981) 29 Cal.3d 375 [173 Cal.Rptr. 458]
LA 466
- Evidence of value of attorney's services
In re Marriage of McNeill (1984) 160 Cal.App.3d 548, 561 fn. 8
- Fees may not be raised by a law firm without notification to clients
Ramirez v. Sturdevant (1994) 21 Cal.App.4th 904 [26 Cal.Rptr.2d 554]
Severson, Werson, Berke & Melchior v. Bollinger (1991) 235 Cal.App.3d 1569, opn. mod. 1 Cal.App. 4th 417a
LA 479, LA 473
- Formal contract
Jackson v. Campbell (1932) 215 Cal. 103 [8 P.2d 845]
additional compensation must not be too vague
Goldberg v. City of Santa Clara (1971) 21 Cal.App.3d 857 [98 Cal.Rptr. 862]
construe liberally in favor of client
Miller v. Wing (1935) 9 Cal.App.2d 483 [50 P.2d 470]
discharged attorney
Kirk v. Culley (1927) 202 Cal. 501 [261 P. 994]
formed after attorney-client relationship established
Preston v. Herminghaus (1930) 211 Cal. 1 [292 P. 953]
implied contract to exercise due care, skill, and knowledge
Floro v. Lawton (1960) 187 Cal.App.2d 657 [10 Cal.Rptr. 98]
promissory note was not valid contract for payment of legal services rendered absent valid underlying attorney-client agreement
Iverson, Yoakum, Papiano & Hatch v. Berwald (1999) 76 Cal.App.4th 990 [90 Cal.Rptr.2d 665]
- strictly construed against the attorney
Alderman v. Hamilton (1988) 205 Cal.App.3d 1033 [252 Cal.Rptr. 845]
-without specific agreement to do a major adjustment, agreement based on fixed hourly rate which provides for possible increase is valid, but only authorizes minor adjustments

CONTRACT FOR EMPLOYMENT

- In re County of Orange (C.D. Cal. 1999) 241 B.R. 212 [4 Cal. Bankr. Ct. Rep. 117]
- unconscionable contract
- Swanson v. Hempstead (1944) 64 Cal.App.2d 681 [149 P.2d 404]
- OR 99-001
- Government contract
- requiring attorney's clients to waive attorney-client and work product privileges
- LA 435 (1985)
- Hybrid, hourly and contingent
- OR 99-001, SF 1999-1
- agreement based on fixed hourly rate which provides for possible increases based on performance is valid, but without specific agreement to do a major adjustment only authorizes minor adjustments
- In re County of Orange (C.D. Cal. 1999) 241 B.R. 212 [4 Cal. Bankr. Ct. Rep. 117]
- Illegal contract
- attorney sharing in award from dissolution
- Theisen v. Keough (1931) 115 Cal.App. 353 [1 P.2d 1015]
- client compromising suit without consent of attorney
- Calvert v. Stoner (1948) 33 Cal.2d 97 [199 P.2d 297]
- LA 505 (2000)
- contract with minor
- Leonard v. Alexander (1942) 50 Cal.App.2d 385 [122 P.2d 984]
- quantum meruit upon recovery
- Rosenberg v. Lawrence (1938) 10 Cal.2d 590 [75 P.2d 1082]
- when void, implied contract arises
- Wiley v. Silsbee (1934) 1 Cal.App.2d 520 [36 P.2d 854]
- Imputation of agency relationship
- Rosenthal v. Garner (1983) 142 Cal.App.3d 891 [191 Cal.Rptr. 300]
- Indigent defendant constitutionally entitled to counsel's best argument for appeal before court rules on withdrawal
- United States v. Griffy (9th Cir. 1990) 895 F.2d 561
- Indigent, non-contractual is statutory
- People v. Barboza (1981) 29 Cal. 3d 375 [173 Cal.Rptr. 458]
- Arnelle v. City & County of San Francisco (1983) 141 Cal.App.3d 693 [190 Cal.Rptr. 490]
- Informal contract
- ambiguity in contract construction
- Miller v. Lantz (1937) 9 Cal.2d 544 [71 P.2d 585]
- equitable lien created if fee not stated
- Wagner v. Sariotti (1943) 56 Cal.App.2d 693
- extrinsic evidence to establish fee
- Shaw v. Leff (1967) 253 Cal.App.2d 437 [61 Cal.Rptr. 178]
- intention of parties
- Houge v. Ford (1955) 44 Cal.2d 706
- interpretation of agreement
- Benjamin v. Frenke (1940) 40 Cal.App.2d 736 [105 P.2d 591]
- modification of agreement
- Carlson, Collins, Gordon & Bold v. Banducci (1967) 257 Cal.App.2d 212 [64 Cal.Rptr. 915]
- promissory note was not valid contract for payment of legal services rendered absent valid underlying attorney-client agreement
- Iverson, Yoakum, Papiano & Hatch v. Berwald (1999) 76 Cal.App.4th 990 [90 Cal.Rptr.2d 665]
- terms not in written agreement
- McKee v. Lynch (1940) 40 Cal.App.2d 216
- Invalid agreement
- advertising legal services for reduced rates
- SD 1975-13
- attorney entitled to reasonable value of services rendered
- Calvert v. Stoner (1948) 33 Cal.2d 97, 104 [199 P.2d 297]
- fixed fee if suit dismissed
- Hall v. Orloff (1920) 49 Cal.App. 745, 749 [194 P.2d 296]
- Modification of contract
- Ramirez v. Sturdevant (1994) 21 Cal.App.4th 904 [26 Cal.Rptr.2d 554]
- Severson, Werson, Berke, & Melchior v. Bollinger (1991) 235 Cal.App.3d 1569, opn. mod. 1 Cal. App.4th 417a
- Vella v. Hudgins (1984) 151 Cal.App.3d 515 [198 Cal.Rptr. 725]
- Walton v. Broglio (1975) 52 Cal.App.3d 400 [125 Cal.Rptr. 123]
- Baron v. Mare (1975) 47 Cal.App.3d 304 [120 Cal.Rptr. 675]
- LA 499 (1999), LA 479 (1994)
- authorization for "additional fees" could not be a contingency fee agreement because of failure to comply with Business and Professions Code section 6147, subdivision (a)
- In the Matter of Silverton (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 252
- lien against recovery in unrelated matter to secure fees owed
- LA 496 (1998)
- without specific agreement to do a major adjustment, agreement based on fixed hourly rate which provides for possible increase is valid, but only authorizes minor adjustments
- In re County of Orange (C.D. Cal. 1999) 241 B.R. 212 [4 Cal. Bankr. Ct. Rep. 117]
- Oral agreements
- Thomson v. Casaudoumecuq (1962) 205 Cal.App.2d 549, 551 [23 Cal.Rptr. 189]
- Hardy v. San Fernando Valley Chamber of Commerce (1953) 119 Cal.App.2d 523 [259 P.2d 728]
- Harvey v. Ballagh (1940) 38 Cal.App.2d 348 [101 P.2d 147]
- between attorney and beneficiary
- Miller v. Price (1944) 66 Cal.App.2d 126 [152 P.2d 24]
- discretion of trial court
- Kendrick v. Gould (1921) 51 Cal.App. 712 [197 P. 681]
- reasonable value of services rendered
- Stuart v. Preston (1934) 2 Cal.App.2d 310 [38 P.2d 155]
- trial court has wide discretion in fixing fee
- Sattinger v. Golden State Glass Corp. (1942) 53 Cal.App.2d 130 [127 P.2d 653]
- Power of attorney clause
- improper for attorney to routinely request from clients
- LA 393 (1981)
- Private attorney with governmental agency
- People ex rel. Clancy v. Superior Court (1985) 39 Cal.3d 740 [218 Cal.Rptr. 24]
- Promissory note was not valid contract for payment of legal services rendered absent valid underlying attorney-client agreement
- Iverson, Yoakum, Papiano & Hatch v. Berwald (1999) 76 Cal.App.4th 990 [90 Cal.Rptr.2d 665]
- Providing for consequences of third-party funding of lawsuit
- LA 500 (1999)
- Providing for court awarded attorney fees
- absent agreement, fees awarded pursuant to California FEHA belong to attorneys who labored on case and not to client
- Flannery v. Prentice (2001) 26 Cal.4th 572 [110 Cal.Rptr.2d 809, 28 P.3d 860]
- district court had authority to award attorney fees for work done outside confines of litigation before court
- Wininger v. SI Management, L.P. (9th Cir. 2002) 301 F.3d 1115
- except for fees specifically provided by statute, the measure and mode of compensation of attorneys is left to the agreement, express or implied of the parties (Code of Civil Procedure 1021)
- Mix v. Tumanjan Development Corp. (2002) 102 Cal.App.4th 1318 [126 Cal.Rptr.2d 267]
- Providing for disposition of client files upon termination
- LA 493 (1998)
- Providing for repayment of costs of litigation
- LA 495 (1998)
- Providing for trial court determination of prevailing party and award of attorney fees

CORPORATION

- Jackson v. Homeowners Association Monte Vista Estates-East (2001) 93 Cal.App.4th 773 [113 Cal.Rptr.2d 363]
- Providing that attorney waives specified fees if client agrees not to accept a confidentiality clause in any settlement permitted if client retains the authority to settle the case without the lawyer's consent and without the imposition of any unconscionable penalty fee
- LA 505 (2000)
- Public policy, contrary to; is a question of law
- Kallen v. Delug (1984) 157 Cal.App.3d 940, 951-952 [203 Cal.Rptr. 879]
- Quantum meruit
- statute of limitations for claims of
- Iverson, Yoakum, Papiano & Hatch v. Berwald (1999) 76 Cal.App.4th 990 [90 Cal.Rptr.2d 665]
- where services have been rendered under a contract which is unenforceable because it was not in writing
- Iverson, Yoakum, Papiano & Hatch v. Berwald (1999) 76 Cal.App.4th 990 [90 Cal.Rptr.2d 665]
- Question of law
- Kallen v. Delug (1984) 157 Cal.App.3d 940, 951-952 [203 Cal.Rptr. 879]
- Reasonable value implied when no fee specified
- Buck v. Ewoka (1899) 124 Cal. 61 [56 P. 621]
- Sattinger v. Golden State Glass Corp. (1942) 53 Cal.App.2d 130 [127 P.2d 653]
- Stuart v. Preston (1934) 2 Cal.App.2d 310 [38 P.2d 155]
- Hannon v. Goucher (1931) 117 Cal.App. 455 [4 P.2d 239]
- in absence of agreement
- Batcheller v. Whittier (1909) 12 Cal.App. 262 [107 P. 141]
- nothing said as to payment
- Cusick v. Boyne (1905) 1 Cal.App. 643 [182 P. 985]
- valid contract but no agreement as to compensation
- Elconin v. Yalen (1929) 208 Cal. 546 [282 P. 791]
- when attorney unable to complete performance
- Boardman v. Christin (1924) 65 Cal.App. 413 [224 P. 97]
- Scope of representation
- Maxwell v. Cooltech, Inc. (1997) 57 Cal.App.4th 629 [67 Cal.Rptr.2d 293]
- LA 483 (1995), LA 476 (1995)
- Sports Service Contracts
- Business and Professions Code section 6106.7
- Substitution of attorney clause included by attorney
- LA 371 (1977)
- Term void as against public policy
- agreement providing that attorney waives specified fees if client agrees not to accept a confidentiality clause in any settlement permitted if client retains the authority to settle the case without the lawyer's consent
- LA 505 (2000)
- clause regarding dismissal of suit without both client and attorney's consent
- Hall v. Orloff (1920) 49 Cal.App. 745
- Unenforceable contract
- incompetent person
- Estate of Doyle (1932) 126 Cal.App. 646, 647 [14 P.2d 920]
- minor may disaffirm
- Spencer v. Collins (1909) 156 Cal. 298 [104 P.2d 320]
- not in writing
- action will generally lie upon a common count for quantum meruit
- Iverson, Yoakum, Papiano & Hatch v. Berwald (1999) 76 Cal.App.4th 990 [90 Cal.Rptr.2d 665]
- Void if consideration is unlawful
- Kallen v. Delug (1984) 157 Cal.App.3d 940, 951 [203 Cal.Rptr. 879]
- Voidable
- contingent attorney's fee agreement to represent plaintiff
- at option of plaintiff where provisions of Business and Professions Code section 6147 not complied with
- Business and Professions Code section 6147(b)
- Franklin v. Appel (1992) 8 Cal.App.4th 875 [110 Cal.Rptr.2d 759]
- Alderman v. Hamilton (1988) 205 Cal.App.3d 1033 [252 Cal.Rptr. 845]
- if violates attorney's ethical duties
- Hulland v. State Bar (1978) 8 Cal.3d 440, 448
- written contingent fee contract
- agreement not given to client in violation of Business and Professions Code sections 6068 (a) & 6147
- In the Matter of Collins (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 1
- written retainer agreement
- failure to comply with Business & Professions Code section 6148
- Iverson, Yoakum, Papiano & Hatch v. Berwald (1999) 76 Cal.App.4th 990 [90 Cal.Rptr.2d 665]
- failure to enter into with client is in violation of Business and Professions Code, sections 6068 (a) and 6148 (a)
- In the Matter of Collins (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 1
- ## CORPORATION
- [See Attorney-client relationship.]
- Rule 3-600, Rules of Professional Conduct (operative as of May 27, 1989)
- Upjohn v. U.S. (1981) 449 U.S. 383 [101 S.Ct. 677]
- LA 389 (1981), LA 185 (1955)
- Agent for, attorney acting as, to solicit athletic contracts
- CAL 1968-13
- Counsel for
- brings suit against shareholder in unrelated matter
- SD 1978-11
- communicates with general counsel when suing subsidiary represented by local counsel
- SD 1968-2
- discloses unlawful act of officers or executives
- LA 353 (1976)
- dissolution
- Woods v. Superior Court (1983) 149 Cal.App.3d 931 [197 Cal.Rptr. 185]
- duty to prevent client's communications with opposing party
- LA(l) 1966-16
- former
- represents
- against corporation
- LA(l) 1936-1
- against officers
- LA 139 (1941)
- in-house counsel entitled to award of reasonable fees under Civil Code section 1717
- PLCM Group, Inc. v. Drexler (2000) 22 Cal.4th 1084 [95 Cal.Rptr.2d 198], as modified (June 2, 2000)
- informs directors of criminal record of a director
- LA(l) 1965-14
- may be sued for malpractice by bankruptcy trustee of "sham" corporation
- Loyd v. Paine Webber, Inc. (9th Cir. 2000) 208 F.3d 755
- no automatic attorney-client relationship between corporate counsel and corporate directors
- National Football League Properties, Inc. v. Superior Court (Raiders) (1998) 65 Cal.App.4th 100 [75 Cal.Rptr.2d 893]
- propriety of being
- represents
- corporation against director
- LA(l) 1966-14
- employees
- SD 1972-3
- rendering legal services to corporation employees
- SD 1975-18
- role of attorney as
- Woods v. Superior Court (1983) 149 Cal.App.3d 931, 935-936 [197 Cal.Rptr. 185]
- shareholder derivative suit
- LA 397 (1982)
- subsidiary also represented by corporate counsel
- SD 1976-6
- suspended corporation
- duty to inform the court of corporation's status
- Palm Valley Homeowners Association, Inc. v. Design MTC (2000) 85 Cal.App.4th 553 [102 Cal.Rptr.2d 350]

CORPORATION COUNSEL

LA 408 (1982)
Director represents stockholder against corporation
LA(l) 1955-2
Enjoy attorney-client privilege
United States v. Rowe (9th Cir. 1996) 96 F.3d 1294
National Football League Properties, Inc. v. Superior Court (Raiders) (1998) 65 Cal.App.4th 100 [75 Cal.Rptr.2d 893]
Hoiles v. Superior Court (1984) 157 Cal.App.3d 1192, 1198
shareholder derivative action against corporation does not entitle shareholders to attorney-client privilege
Titmas v. Superior Court of Orange County (2001) 87 Cal.App.4th 738 [104 Cal.Rptr.2d 803]
shareholder's derivative action against corporation's outside counsel cannot proceed because attorney-client privilege precludes counsel from mounting meaningful defense
McDermott, Will & Emory v. Superior Court (James) (2000) 83 Cal.App.4th 378 [99 Cal.Rptr.2d 622]
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may state cause of action against employer for retaliatory discharge and breach of implied-in-fact contract
General Dynamics Corp. v. Superior Court (1994) 7 Cal.4th 1164 [876 P.2d 487]
LA 389 (1981)
officers of the court, subject to Code of Professional Responsibility
U.S. Steel Corporation v. United States (C.A. Fed. 1984) 720 F.2d 1465, 1468
Joint venture
Galardi v. State Bar (1987) 43 Cal.3d 683 [238 Cal.Rptr. 774]
Pavich v. Santucci (2000) 85 Cal.App.4th 382 [102 Cal.Rptr.2d 125]
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Representation of corporation and board of directors in derivative suit
LA 397 (1982)
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Shareholders may not pierce the privilege in that capacity
Titmas v. Superior Court of Orange County (2001) 87 Cal.App.4th 738 [104 Cal.Rptr.2d 803]
McDermott, Will & Emory v. Superior Court (James) (2000) 83 Cal.App.4th 378 [99 Cal.Rptr.2d 622]
National Football League Properties, Inc. v. Superior Court (Raiders) (1998) 65 Cal.App.4th 100 [75 Cal.Rptr.2d 893]
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Stockholder
director represents stockholder against corporation
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attorney for suspended corporation cannot claim that statute of limitations expired when reliance upon his advice led to the statute expiring
Leasequip, Inc. v. Dapeer (2002) 103 Cal.App.4th 394 [126 Cal.Rptr.2d 782]
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Palm Valley Homeowners Association, Inc. v. Design MTC (2000) 85 Cal.App.4th 553 [102 Cal.Rptr.2d 350]
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Trustee of "sham" corporation has standing to sue corporate attorneys for legal malpractice
Loyd v. Paine Webber, Inc. (9th Cir. 2000) 208 F.3d 755

CORPORATION COUNSEL [See Client trust account. Confidences of the client. Corporation. Insurance company attorney. Law corporation.]

COSTS [See Advancement of funds. Client trust account. Expenses.]

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Advanced costs by a law firm per terms of contingency fee agreement deductible as business expenses

Boccardo v. Commissioner of Internal Revenue (9th Cir. 1995) 56 F.3d 1016

Apportioning costs between insurer and insured

LA 424 (1984)

Assigned counsel's duty with respect to

LA 379 (1979)

Attorney's fees as costs

Scott Co. of California v. Blount Co. (1999) 20 Cal.4th 1103 [86 Cal.Rptr.2d 614]

Attorney's fees do not include expert witness fees

First Nationwide Bank v. Mountain Cascade Inc. (2000) 77 Cal.App.4th 871 [92 Cal.Rptr.2d 145]

Billing for costs and expenses

In the Matter of Kroff (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 838

LA 499 (1999)

Contract attorney

Shaffer v. Superior Court (1995) 33 Cal.App.4th 993

Costs incurred by the State Bar may be imposed on respondents under Business and Professions Code section 6086.10

In re Taggart (2001) 249 F.3d 987

In the Matter of Chen (Review Dept. 1993) 2 Cal. State Bar Ct. Rptr. 571

In the Matter of Respondent J (Review Dept. 1993) 2 Cal. State Bar Ct. Rptr. 273

Criminal proceedings

assignment of costs and fees against criminal defendant requires notice, hearing, and evidence of actual costs

People v. Poindexter (1989) 210 Cal.App.3d 803 [258 Cal.Rptr. 680]

Donation of legal services and costs as prize

LA 434 (1984)

Error in awarding costs

family law court erred in accepting commissioner's findings as to attorney fees and costs where commissioner provided no notice to affected attorney and had recused himself for bias

In re Marriage of Kelso (1998) 67 Cal.App.4th 374 [79 Cal.Rptr.2d 39]

Expert witness fees cannot be included as attorney fees or recovered as "necessary expense" under contract unless properly pled and proved

First Nationwide Bank v. Mountain Cascade Inc. (2000) 77 Cal.App.4th 871 [92 Cal.Rptr.2d 145]

Expert witnesses obtained through a medical-legal consulting firm

Ojeda v. Sharp Cabrillo Hospital (1992) 8 Cal.App.4th 1

Failure to hold advance costs in client trust account

Aronin v. State Bar (1990) 52 Cal.3d 276

Silva-Vidor v. State Bar (1989) 49 Cal.3d 1071

Failure to refund unused advanced costs

In the Matter of Koehler (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 615

Filing fee

client's inability to pay

Alexander v. Carson Adult High School (1993) 9 F.3d 1448

Flat periodic fee or lump sum to cover disbursements may be allowed if not unconscionable and client consents

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- In the Matter of Kroff (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 838
- Interest charged on advanced costs from payment until billing
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- IRS pre-litigation activities in tax assessment case did not warrant litigation costs to taxpayer
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- Paid by lawyer
LA 499 (1999), LA 379 (1979), LA 149 (1944)
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- Pro bono representation
LA 379 (1979)
- Reasonable expenses recoverable by an attorney exonerated of all charges in a disciplinary proceeding
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- Recovery of, by party
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necessarily incurred traveling expenses recoverable
Lubetzky v. Friedman (1988) 199 Cal.App.3d 1350 [245 Cal.Rptr. 589]
- Recovery of, defending a frivolous civil action
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- Recovery of, upon occurrence of contingency
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- Trial transcript cost not recoverable by an attorney exonerated of all charges in a disciplinary proceeding
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- Abuse of discretion
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- Abuse of judicial process
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- Attorney's acts under Civil Code section 47(2) not privileged where damages do not stem directly from those acts
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- Attorney's deception in collection of debt not protected by judicial process' absolute privilege under Civil Code section 47
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- Authority
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- to disqualify law firm
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- to order ancillary criminal defense services
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- Bankruptcy court's jurisdiction to amend award of attorney's fees under CCP §187 and the inherent power of federal courts
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- Chooses not to speak on ethical issues
United States v. Springer (7th Cir. 1971) 460 F.2d 1344, 1354
- Client's cross-examination of witnesses
People v. Davis (1984) 161 Cal.App.3d 796, 802-804
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- Duty to determine presence of coercive element in plea bargaining
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- Federal court has control of attorneys practicing before it
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- Fraud on the court must harm the integrity of the judicial process
In re Levander (9th Cir. 1999) 180 F.3d 1114
- Indigent defendant constitutionally entitled to counsel's best argument for appeal before court rules on withdrawal
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- Information disclosed to
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COURT REPORTER

COURT REPORTER

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CREDITOR [See Collections. Conflict of interest, creditor.]

CRIMINAL CASE [See Conflict of interest, criminal proceeding. Ineffective assistance of counsel. Prosecutorial misconduct.]

Abandonment by appellate counsel was good cause for substantial delay in filing of habeas petition

In re Sanders (1999) 21 Cal.4th 697 [87 Cal.Rptr.2d 899]

Appeal

California use of Wendt no-issue briefs is acceptable procedure for protecting indigent defendant when appointed attorney concludes that appeal would be without merit and otherwise frivolous

Smith v. Robbins (2000) 528 U.S. 259 [120 S.Ct. 746]

Appointment of deputy public defender by court to serve as "stand-by counsel" in the event defendant cannot continue with self-representation is impermissible under Government Code section 27706

Dreiling v. Superior Court (2000) 86 Cal.App.4th 380 [103 Cal.Rptr.2d 70]

Littlefield v. Superior Court (1993) 18 Cal.App.4th 856 [22 Cal.Rptr.2d 659]

Communication with a represented party

rule prohibiting ex parte communications does not bar discussions initiated by employee of defendant corporation with government attorney for the purpose of disclosing that corporate officers are attempting to suborn perjury and obstruct justice

United States v. Talao (9th Cir. 2000) 222 F.3d 1133

Defense counsel's declarations regarding informant

People v. Oppel (1990) 222 Cal.App.3d 1146 [272 Cal.Rptr. 340]

Defense counsel must turn over to law enforcement cash received from a client which are the actual bills used in a crime

United States v. Kellington (9th Cir. Or. 2000) 217 F.3d 1084 LA 466 (1991)

Facts surrounding a violation of Insurance Code section 750, subdivision (a) involved moral turpitude

In the Matter of Duxbury (Review Dept. 1999) 4 Cal. State Bar Ct. Rptr. 61

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Lott v. Mueller (9th Cir. 2002) 304 F.3d 918

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Delgado v. Lewis (9th Cir. 2000) 223 F.3d 976

United States v. Griffy (9th Cir. 1990) 895 F.2d 561

Negotiation of private agreement to compromise civil claim arising from crime

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Negotiation of private agreement to prosecute crime

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defendant

-after representing party who is now prosecution witness

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Right of criminal defendant to consult privately with counsel

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Right to ancillary defense services under Penal Code section 987.9

Tran v. Superior Court (People) (2001) 92 Cal.App.4th 1149 [112 Cal.Rptr.2d 506]

Right to counsel

U.S. v. Walters (2002) 309 F.3d 589

United States v. Edward E. Allen (9th Cir. 1998) 157 F.3d 661

People v. Clemmons (1990) 224 Cal.App.3d 1500

defendant has right to counsel of choice and includes right to discharge retained counsel

People v. Lara (2001) 86 Cal.App.4th 139 [103 Cal.Rptr.2d 201]

CROSS REFERENCE TABLES

History of Rules of Professional Conduct of the State Bar of California [See part III.D. of this Compendium.]

State Bar Act of 1939 [See part I.A. to this Compendium at "Cross Reference Table."]

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Damages in tort and contract causes of actions between partners of a dissolved partnership

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*Dickson, Carlson & Campillo v. Pole (2000) 83 Cal.App.4th 436 [99 Cal.Rptr.2d 678]

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Rule 1-320, Rules of Professional Conduct (operative as of May 27, 1989)

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DELAY IN HANDLING CASE [See Competence. Misconduct. Trial conduct.]

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Rule 3-110, Rules of Professional Conduct (operative as of May 27, 1989)

Spindell v. State Bar (1975) 13 Cal.3d 253 [118 Cal.Rptr. 480, 530 P.2d 168]

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In the Matter of Phillips (Review Dept. 1999) 4 Cal. State Bar Ct. Rptr. 47

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In the Matter of Rose (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 646

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Multiple acts involving moral turpitude and dishonesty warrant disbarment

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In the Matter of Wyshak (Review Dept. 1999) 4 Cal. State Bar Ct. Rptr. 70

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In re Paguirigan (2001) 25 Cal.4th 1 [104 Cal.Rptr.2d 402, 17 P.3d 758]

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Marquette v. State Bar (1988) 44 Cal.3d 253 [242 Cal.Rptr. 886, 746 P.2d 1289]

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Phillips v. State Bar (1989) 49 Cal.3d 944
In the Matter of Freydl (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 349
In the Matter of Harris (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 219
- failure to accept responsibility for or understand wrongfulness of actions
Gadda v. State Bar (1990) 50 Cal.3d 344 [787 P.2d 95]
Bernstein v. State Bar (1990) 50 Cal.3d 221 [786 P.2d 352]
Van Sloten v. State Bar (1989) 48 Cal.3d 921 [258 Cal.Rptr. 235]
Carter v. State Bar (1988) 44 Cal.3d 1091, 1100-1101 [245 Cal.Rptr. 628, 751 P.2d 894]
In re Gadda (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 416
In re Peavey (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 483
In the Matter of Phillips (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 315
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In the Matter of Lais (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 112
In the Matter of Wyshak (Review Dept. 1999) 4 Cal. State Bar Ct. Rptr. 70
- failure to appreciate seriousness of misconduct
In the Matter of Torres (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 138
- failure to comply with discovery requests by State Bar
In the Matter of Lais (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 112
- failure to cooperate with disciplinary investigation
In the Matter of Freydl (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 349
- failure to file timely pre-trial statement
In the Matter of Lais (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 112
- failure to return unearned fees
Bernstein v. State Bar (1990) 50 Cal.3d 221 [786 P.2d 352]
Phillips v. State Bar (1989) 49 Cal.3d 944
- indifference to rectifying consequences of misconduct
In the Matter of Petilla (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 231
In the Matter of Phillips (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 315
In the Matter of Lantz (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 126
- lack of candor in disciplinary proceeding
In the Matter of Dahlz (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 269
In the Matter of Phillips (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 315
In the Matter of Chestnut (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 166
In the Matter of Johnson (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 179
- multiple acts of misconduct
In the Matter of Bailey (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 220
In the Matter of Dahlz (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 269
In the Matter of Phillips (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 315
In the Matter of Lais (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 112
In the Matter of Lantz (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 126
- overreaching and bad faith
In re Peavey (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 483
In the Matter of Kauffman (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 213
In the Matter of Phillips (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 315
In the Matter of Lantz (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 126
- pattern of misconduct
In the Matter of Doran (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 871
- presentation of misleading evidence in mitigation
In the Matter of Lais (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 112
- record of prior discipline
In re Gadda (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 416
In the Matter of Dahlz (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 269
In the Matter of Freydl (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 349
In the Matter of Taggart (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 302
In the Matter of Chestnut (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 166
In the Matter of Johnson (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 179
- serious, repeated misconduct
In the Matter of Kauffman (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 213
- significant harm
In the Matter of Bailey (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 220
In the Matter of Dahlz (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 269
In the Matter of Kauffman (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 213
In the Matter of Lantz (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 126
In the Matter of Torres (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 138
In the Matter of Johnson (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 179
- single disciplinary violation does not amount to bad faith
In the Matter of Torres (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 138
- uncharged violations
Edwards v. State Bar (1990) 52 Cal.3d 28, 35-36
In re Peavey (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 483
In the Matter of Kauffman (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 213
In the Matter of Phillips (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 315

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- In the Matter of Johnson (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 179
In the Matter of Doran (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 871
In the Matter of Bragg (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 615
In the Matter of Fonte (Review Dept. 1994) 2 Cal. State Bar Ct. Rptr. 752
In the Matter of Kopinski (Review Dept. 1994) 2 Cal. State Bar Ct. Rptr. 716
withdrawal of agreement regarding authenticity of documents does not amount to failure to cooperate with State Bar
In the Matter of Torres (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 138
Appearing for party without authority
Business and Professions Code section 6104
In the Matter of Phillips (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 315
In the Matter of Brimberry (Review Dept. 1995) 3 Cal. State Bar Ct. Rptr. 390
"appearing" defined for purposes of B & P § 6104
In the Matter of Lais (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 907
Appropriateness of discipline
Tarver v. State Bar (1984) 37 Cal.3d 122 [207 Cal.Rptr. 302]
Palomo v. State Bar (1984) 36 Cal.3d 785
In the Matter of Bailey (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 220
In the Matter of Dahlz (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 269
In the Matter of Freydl (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 349
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In the Matter of Petilla (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 231
In the Matter of Phillips (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 315
In the Matter of Taggart (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 302
In the Matter of Lais (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 112
In the Matter of Lantz (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 126
Associate assigned to client matters may not be blamed for supervising attorney's misconduct
Bernstein v. State Bar (1990) 50 Cal.3d 221
In the Matter of Whitehead (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 354
Attorney-client privilege may be waived if client fails to assert it at a disciplinary hearing
Calvert v. State Bar (1991) 54 Cal.3d 765
Attorney entitled to procedural due process
In re Kramer (9th Cir. 2002) 282 F.3d 721
Standing Com. on Dis. of United States v. Ross (9th Cir. 1984) 735 F.2d 1168, 1170
due process not violated by summary order denying review by State Supreme Court without first issuing a written opinion or conferring a right to oral argument
In re Rose (2000) 22 Cal.4th 430 [83 Cal.Rptr.2d 298]
Attorney must be afforded a fair and reasonable opportunity to be heard
In re Kramer (9th Cir. 2002) 282 F.3d 721
Martin v. Committee of Bar Examiners (1983) 33 Cal.3d 717 [190 Cal.Rptr. 610, 661 P.2d 160]
due process not violated by summary order denying review by State Supreme Court without first issuing a written opinion or conferring a right to oral argument
In re Rose (2000) 22 Cal.4th 430 [83 Cal.Rptr.2d 298]
Authority of State Bar
abstention by a bankruptcy court from interference with a State Bar disciplinary proceeding
In re Franceschi (9th Cir. BAP 2001) 268 B.R. 219
federal law does not preempt State Bar of California's authority to discipline attorney for misconduct in immigration matters
In re Gadda (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 416
misconduct in immigration matters
In re Valinoti (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 498
out-of-state arbitration representatives
Code of Civil Procedure section 1282.4
sovereign immunity of the State Bar as an arm of the state
In re Franceschi (9th Cir. BAP 2001) 268 B.R. 219
Authority of Supreme Court
In re Rose (2000) 22 Cal.4th 430 [83 Cal.Rptr.2d 298]
In re Attorney Discipline System; Requests of the Governor and the State Bar (1999) 19 Cal.4th 582 [79 Cal.Rptr.2d 836, 967 P.2d 49]
Carter v. State Bar (1988) 44 Cal.3d 1091 [245 Cal.Rptr. 628]
Alborton v. State Bar (1984) 37 Cal.3d 1, 11-12 [206 Cal.Rptr. 573]
inherent authority includes power to appoint judges of the State Bar Court and this power is not impaired by permissible appointment mechanisms specified by the legislature
Obrien, et al. v. Jones, et al. (2000) 23 Cal.4th 40 [96 Cal.Rptr.2d 205, 999 P.2d 95]
Bar Examination
taking bar examination for another
In re Lamb (1989) 49 Cal.3d 239 [260 Cal.Rptr. 856]
Bias and prejudgment by hearing judge is claimed by respondent
+In the Matter of Aguiluz (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 32
Bias and prejudice against respondent manifested by referee are claimed by respondent as prejudicial error
In the Matter of Frazier (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 676
Breach of fiduciary duty
Stanley v. Richmond (1995) 35 Cal.App.4th 1070 [41 Cal.Rptr.2d 768]
Read v. State Bar (1991) 53 Cal.3d 394, Modified at 53 Cal.3d 1009A
Hartford v. State Bar (1990) 50 Cal.3d 1139
civil judgment for fraud and breach of fiduciary duty establishes moral turpitude
In the Matter of Kittrell (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 195
Burden is on petitioner to demonstrate that findings of State Bar Court are unsupported by substantial evidence
Segal v. State Bar (1988) 44 Cal.3d 1077 [245 Cal.Rptr. 404]
Smith v. State Bar (1984) 37 Cal.3d 17, 23-24 [206 Cal.Rptr. 545]
Montag v. State Bar (1983) 32 Cal.3d 721 [186 Cal.Rptr. 894, 652 P.2d 1370]
In the Matter of Harris (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 219
Burden of proof
State Bar of California, clear and convincing
In re Morales (1983) 35 Cal.3d 1
In the Matter of Petilla (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 231
California Professional Responsibility Examination
purpose of
In the Matter of Respondent G (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 175
California State Bar Court is not governed by civil or criminal rules of procedure
In re Taggart (2001) 249 F.3d 987

DISCIPLINARY ACTION

Censure

pro hac vice attorney

United States v. Summet (9th Cir. 1988) 862 F.2d 784

Civil findings by themselves are not dispositive of disciplinary issues

In the Matter of Lais (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 112

Collateral estoppel from previous litigation

In the Matter of Kittrell (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 195

In the Matter of Torres (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 138

In the Matter of Berg (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 725, 731

In the Matter of Applicant A (Review Dept. 1995) 3 Cal. State Bar Ct. Rptr. 318, 329

Commencement of disciplinary proceeding
period of limitations

Rule 51, Rules of Procedure of the State Bar of California

Communications with the State Bar are privileged

Business and Professions Code section 6094

Lebbos v. State Bar (1985) 165 Cal.App.3d 656, 665-671 [211 Cal.Rptr. 847]

Chen v. Fleming (1983) 147 Cal.App.3d 36

Complaint

lapse of time in the filing of a disciplinary complaint is no defense unless specific prejudice is shown

Yokozeki v. State Bar (1974) 11 Cal.3d 436, 449

In the Matter of Aulakh (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 690

presentation of a false and malicious complaint may give rise to a misdemeanor

Business and Professions Code section 6043.5

presenting charges of attorney misconduct

contact State Bar Office of Investigations

(800) 843-9053

Conclusive weight given to disciplinary proceedings in Michigan despite lower standard of proof where the Michigan Supreme Court found the evidence of misconduct overwhelming

In the Matter of Jenkins (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 157

Condition of psychiatric treatment requires clear or expert evidence that the respondent attorney had a specific mental or other problem

In the Matter of Koehler (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 615

Conditions attached to public or private reprovations under Rule 956

In the Matter of Johnson (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 179

In the Matter of John Collier Pyle (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 929

Conduct warranting discipline

dishonesty to court

In the Matter of Phillips (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 315

In the Matter of Chestnut (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 166

In the Matter of Johnson (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 179

moral turpitude

In re Lesansky (2001) 25 Cal.4th 11 [104 Cal.Rptr.2d 409, 17 P.3d 764]

In re Morales (1983) 35 Cal.3d 1, 9-10

In the Matter of Dahlz (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 269

In the Matter of Petilla (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 231

In the Matter of Phillips (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 315

In the Matter of Chestnut (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 166

In the Matter of Jenkins (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 157

In the Matter of Kittrell (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 195

In the Matter of Johnson (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 179

Confidentiality of disciplinary investigations

Business and Professions Code section 6086.1(b)

Contempt of court as basis for

Standing Com. on Dis. of United States v. Ross (9th Cir. 1984) 735 F.2d 1168

Continuances of proceedings

Palomo v. State Bar (1984) 36 Cal.3d 785, 791-792

Conviction of crime need not be in California

People v. Davis (1985) 166 Cal.App.3d 760, 764 fn.2 [212 Cal.Rptr. 673]

Costs

incurred by the State Bar may be imposed on respondents under Business and Professions Code section 6086.10

In re Taggart (2001) 249 F.3d 987

In the Matter of Chen (Review Dept. 1993) 2 Cal. State Bar Ct. Rptr. 571

In the Matter of Respondent J (Review Dept. 1993) 2 Cal. State Bar Ct. Rptr. 273

reasonable expenses recoverable by an attorney exonerated of all charges in a disciplinary proceeding

In the Matter of Wu (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 263

trial transcript cost not recoverable by an attorney exonerated of all charges in a disciplinary proceeding

In the Matter of Wu (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 263

Criminal conviction

attorney cannot collaterally attack criminal conviction in disciplinary proceeding

In re Prantil (1989) 48 Cal.3d 227 [255 Cal.Rptr. 890, 768 P.2d 109]

attorney's conviction of a crime is conclusive evidence of guilt

In the Matter of Bouyer (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 888

dismissal or acquittal of criminal charges does not bar disciplinary proceedings covering the same facts

In the Matter of Jenkins (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 157

summary disbarment for attempted child molestation

In re Lesansky (2001) 25 Cal.4th 11 [104 Cal.Rptr.2d 409, 17 P.3d 764]

summary disbarment for forgery

In re Paguirigan (2001) 25 Cal.4th 1 [104 Cal.Rptr.2d 402, 17 P.3d 758]

Criminal procedures do not apply in disciplinary proceedings

Palomo v. State Bar (1984) 36 Cal.3d 785, 792

Deception of court

Franklin v. State Bar (1986) 41 Cal.3d 700 [224 Cal.Rptr. 738]

Davis v. State Bar (1983) 33 Cal.3d 231 [188 Cal.Rptr. 441, 655 P.2d 1276]

attempting to mislead a judicial officer

Maltaman v. State Bar (1987) 43 Cal.3d 924

Default, no relief despite technical errors

In the Matter of Navarro (Review Dept. 1990) 1 Cal. State Bar Ct. Rptr. 192

Default by respondent attorney

appropriate method for calculation of discipline

*In the Matter of Marsh (Review Dept. 1990) 1 Cal. State Bar Ct. Rptr. 291

recommendation extending actual suspension until compliance with rule 205 must state definite period of actual suspension and, if appropriate, stayed suspension

In the Matter of Stansbury (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 103

requirement for probation conditions reasonably related to misconduct

In the Matter of Bailey (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 220

DISCIPLINARY ACTION

- requirement for specific period of stayed suspension
 - In the Matter of Bailey (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 220
- respondent claims disability affected memory
 - Colangelo v. State Bar (1991) 53 Cal.3d 1255 [283 Cal.Rptr. 181]
- Defendants' burden of proof
 - Alberton v. State Bar (1984) 37 Cal.3d 1, 12 [206 Cal.Rptr. 373]
- Defense
 - attorney has right to argue ethical obligations establish a bona fide legal representation defense
 - United States v. Kellington (9th Cir. Or. 2000) 217 F.3d 1084
- Defenses and mitigating circumstances
 - Gary v. State Bar (1988) 44 Cal.3d 820 [244 Cal.Rptr. 482]
 - Palomo v. State Bar (1984) 36 Cal.3d 785
 - good character
 - In the Matter of Chestnut (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 166
 - good faith is a defense to a charge of dishonesty
 - In the Matter of Chestnut (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 166
 - pro bono activities
 - In the Matter of Chestnut (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 166
- Delays during disciplinary process
 - +In the Matter of Aguiluz (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 32
 - In the Matter of Katz (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 502
 - no prejudice
 - In the Matter of Kauffman (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 213
- Description of the attorney disciplinary system in California
 - In re Taggart (2001) 249 F.3d 987
 - Hirsh v. Justices of the Supreme Court (9th Cir. 1995) 67 F.3d 708, 711-12
 - In re Rose (2000) 22 Cal.4th 430 [93 Cal.Rptr.2d 298]
- Disbarment appropriate when large sums of money misappropriated from several clients
 - In the Matter of Kueker (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 583
- Disbarment despite attorney's claim of emotional and physical problems caused by chronic diarrhea
 - Bercovich v. State Bar (1990) 50 Cal.3d 116
- Disbarment despite contention that attorney was incompetent and unable to assist in his defense
 - Staten v. State Bar (1988) 46 Cal.3d 48 [249 Cal.Rptr. 289, 757 P.2d 1]
- Disbarment despite mitigating circumstances if convicted of offense including intent to deceive or defraud and offenses committed while practicing law
 - In re Utz (1989) 48 Cal.3d 468 [256 Cal.Rptr. 561, 769 P.2d 417]
- Disbarment for abandonment and failure to return unearned fees
 - Bowles v. State Bar (1989) 48 Cal.3d 100 [255 Cal.Rptr. 846, 768 P.2d 65]
- Disbarment for federal crime
 - protection of public
 - In re Giddens (1981) 30 Cal.3d 110 [177 Cal.Rptr. 673, 635 P.2d 166]
- Disbarment for misappropriation of clients' identity
 - In re Kreitenberg (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 469
- Disbarment for misappropriation of funds from client trust account and partnership operating account
 - In re Basinger (1988) 45 Cal.3d 1348 [249 Cal.Rptr. 110, 756 P.2d 833]
- Disbarment for misappropriation unless clearly extenuating circumstances are present
 - In the Matter of Freydl (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 349
- Disbarment for moral turpitude
 - attempting to receive stolen property
 - In re Conflenti (1981) 29 Cal.3d 120 [172 Cal.Rptr. 203, 624 P.2d 253]
 - conspiracy to commit offenses against the United States
 - In re Bloom (1987) 44 Cal.3d 128
 - In re Kreitenberg (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 469
 - filing false election documents
 - In re Rivas (1989) 49 Cal.3d 794
 - judge systematically and routinely sold his office and his public trust
 - In the Matter of Jenkins (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 157
 - misappropriation of firm's funds
 - attorney disbarred for misappropriating funds during breakup of firm
 - Morales v. State Bar (1988) 44 Cal.3d 1037 [245 Cal.Rptr. 398, 751 P.2d 457]
 - mail fraud
 - In the Matter of Weber (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 942
 - multiple acts of moral turpitude and dishonesty warrant disbarment
 - In the Matter of Wyshak (Review Dept. 1999) 4 Cal. State Bar Ct. Rptr. 70
 - summary disbarment for forgery
 - +In the Matter of Paquirigan (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 936
 - taking bar examination for another
 - In re Lamb (1989) 49 Cal.3d 239
- Disbarment for repeated and persistent misconduct in multiple cases
 - after commencement of State Bar proceedings
 - Gordon v. State Bar (1982) 31 Cal.3d 748
 - conviction of conspiracy to distribute cocaine
 - In re Meacham (1988) 47 Cal.3d 510
 - disciplinary action
 - Lebbos v. State Bar (1991) 53 Cal.3d 37
 - In re Billings (1990) 50 Cal.3d 358 [787 P.2d 617]
 - Hitchcock v. State Bar (1989) 48 Cal.3d 690 [257 Cal.Rptr. 696, 771 P.2d 394]
 - Twohy v. State Bar (1989) 48 Cal.3d 502 [256 Cal.Rptr. 794, 769 P.2d 976]
 - In re Aquino (1989) 49 Cal.3d 1122
 - Phillips v. State Bar (1989) 49 Cal.3d 944
 - Sands v. State Bar (1989) 49 Cal.3d 919
 - Coombs v. State Bar (1989) 49 Cal.3d 679 [262 Cal.Rptr. 554]
 - Jones v. State Bar (1989) 49 Cal.3d 273 [777 P.2d 170]
 - Weber v. State Bar (1988) 47 Cal.3d 492
 - Garlow v. State Bar (1988) 44 Cal.3d 689
 - Ballard v. State Bar (1983) 35 Cal.3d 274
 - In the Matter of Phillips (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 315
 - In the Matter of Wyshak (Review Dept. 1999) 4 Cal. State Bar Ct. Rptr. 70
 - In the Matter of Moriarty (Review Dept. 1999) 4 Cal. State Bar Ct. Rptr. 9
 - In the Matter of Steele (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 708
 - In the Matter of Hinden (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 657
 - In the Matter of Kaplan (Review Dept. 1996) 3 Cal. State Bar Ct. Rptr. 547
 - In the Matter of Brimberry (Review Dept. 1995) 3 Cal. State Bar Ct. Rptr. 390
 - filing false election documents
 - In re Rivas (1989) 49 Cal.3d 794
 - timeliness
 - Blair v. State Bar (1989) 49 Cal.3d 762
- Disbarment may be appropriate discipline even where there is no prior record of discipline
 - In the Matter of Phillips (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 315
 - In the Matter of Moriarty (Review Dept. 1999) 4 Cal. State Bar Ct. Rptr. 9

DISCIPLINARY ACTION

- In the Matter of Wyshak (Review Dept. 1999) 4 Cal. State Bar Ct. Rptr. 70
- Disbarred or disciplined attorney
 - Rule 9-101, Rules of Professional Conduct (operative until May 26, 1989)
 - Rule 1-110, Rules of Professional Conduct (operative effective May 27, 1989)
 - compliance with California Rules of Court
 - Rule 955, California Rules of Court
 - disbarment despite contention that attorney was incompetent and unable to assist in his defense
 - Slaten v. State Bar (1988) 46 Cal.3d 48 [249 Cal.Rptr. 289, 757 P.2d 1]
 - judge disbarred in California after disbarment in Michigan
 - In the Matter of Jenkins (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 157
- Disciplinary order, failure to comply
 - Dahlman v. State Bar (1990) 50 Cal.3d 1088 [790 P.2d 1322]
 - In the Matter of Taggart (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 302
- Disciplinary proceedings are neither civil nor criminal in character; they are administrative and of their own nature
 - In re Taggart (2001) 249 F.3d 987
- Disciplinary proceedings before State Bar
 - failure to appear at State Bar hearing
 - Bledsoe v. State Bar (1991) 52 Cal.3d 1074
 - In the Matter of Bailey (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 220
 - failure to cooperate with investigation
 - Conroy v. State Bar (1991) 53 Cal.3d 495
 - Bach v. State Bar (1991) 52 Cal.3d 1201
 - Friedman v. State Bar (1990) 50 Cal.3d 235
 - In the Matter of Bailey (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 220
 - In the Matter of Dahlz (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 269
 - In the Matter of Lais (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 112
 - In the Matter of Bach (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 631
 - In the Matter of Farrell (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 490
 - In the Matter of Hertz (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 456
 - In the Matter of Lilley (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 476
 - In the Matter of Burckhardt (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 343
 - member not entitled to traditional criminal safeguards because proceedings only quasi-criminal in nature
 - Ainsworth v. State Bar (1988) 46 Cal.3d 1218
 - Slaten v. State Bar (1988) 46 Cal.3d 48, 57
 - Frazer v. State Bar (1988) 43 Cal.3d 564, 567
 - Yokozeki v. State Bar (1974) 11 Cal.3d 436, 447
 - right to counsel
 - Walker v. State Bar (1989) 49 Cal.3d 1107
 - Ainsworth v. State Bar (1988) 46 Cal.3d 1218
 - Slaten v. State Bar (1988) 46 Cal.3d 48, 57
 - Dixon v. State Bar (1981) 39 Cal.3d 335, 342-343
 - timeliness
 - Blair v. State Bar (1989) 49 Cal.3d 762
- Discriminatory enforcement
 - In the Matter of Anderson (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 775
- Dismissal
 - In the Matter of Silverton (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 252
- Disregard for obligations to the legal profession and to clients
 - In the Matter of Freydl (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 349
- District court's order cannot stand as attorney disciplinary order where order to show cause was not issued, a hearing was not held, and complaining judge imposed the purported discipline
 - Weissman v. Quail Lodge Inc. (9th Cir. 1999) 179 F.3d 1194
- "Double jeopardy" defense
 - +In the Matter of Aguiluz (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 32
- Driving under influence of alcohol, conviction for
 - In re Kelley (1990) 52 Cal.3d 487 [801 P.2d 1126]
 - In re Billings (1990) 50 Cal.3d 358 [787 P.2d 617]
 - In re Carr (1988) 46 Cal.3d 1089
 - In the Matter of Torres (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 138
- failure to cooperate with investigation
 - Friedman v. State Bar (1990) 50 Cal.3d 235
- Due process claim based on an amendment of the notice to show cause
 - In the Matter of Frazier (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 676
- Due process claim based on denial of request for a continuance
 - Martin v. State Bar (1991) 52 Cal.3d 1055
- Due process denied if culpability is based on uncharged misconduct
 - Rose v. State Bar (1989) 49 Cal.3d 646, 654 [262 Cal.Rptr. 702]
- Due process not violated by summary order denying review by State Supreme Court without first issuing a written opinion or conferring a right to oral argument
 - In re Rose (2000) 22 Cal.4th 430 [83 Cal.Rptr.2d 298]
- Duties of disbarred attorney in connection with Rule 955, California Rules of Court
 - Bercovich v. State Bar (1990) 50 Cal.3d 116
- Estoppel if party stipulates to proceeding in excess of jurisdiction
 - In the Matter of Posthuma (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 813
- Ethical violations
 - complaint against individual lawyer made against his firm
 - SD 1975-10
 - duty to report violation by another attorney
 - SD 1992-2, LA 440 (1986)
 - SF 1977-1
 - same misconduct may result in more than one violation
 - In the Matter of Lais (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 907
 - In the Matter of Acuna (Review Dept. 1996) 3 Cal. State Bar Ct. Rptr. 495, 504
 - In the Matter of Kaplan (Review Dept. 1993) 3 Cal. State Bar Ct. Rptr. 547, 554
 - serious ethical violation required for forfeiture of fees
 - Pringle v. La Chappelle (1999) 73 Cal.App.4th 1000 [87 Cal.Rptr.2d 90]
- Ethics school
 - as a condition of reproval
 - In the Matter of Respondent Z (Review Dept. 1999) 4 Cal. State Bar Ct. Rptr. 85
 - In the Matter of Respondent G (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 175
 - completion is required if discipline is imposed
 - In the Matter of Bailey (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 220
 - completion may be required as a probation condition
 - In the Matter of Bailey (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 220
 - completion may be required at the time of a ruling on a motion to terminate actual suspension
 - In the Matter of Bailey (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 220
- Evidence
 - admissibility
 - federal trial transcript containing evidence counter to California rules admissible
 - In re Chernik (1989) 49 Cal.3d 467 [261 Cal.Rptr. 595, 777 P.2d 631]
 - adverse credibility determination
 - In the Matter of Chestnut (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 166
 - circumstantial evidence can establish intent
 - In the Matter of Petilla (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 231

DISCIPLINARY ACTION

- conclusive weight given to disciplinary proceedings in Michigan despite lower standard of proof where the Michigan Supreme Court found the evidence of misconduct overwhelming
In the Matter of Jenkins (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 157
- no error in excluding evidence of respondent's willingness to stipulate to reasonable discipline
In the Matter of Silver (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 902
- trial evidence considered only to determine aggravation and mitigation
In the Matter of Silver (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 902
- Excuse of misconduct
Ballard v. State Bar (1983) 35 Cal.3d 274
- Fabrication of evidence for State Bar proceeding
Borré v. State Bar (1991) 52 Cal.3d 1047
- Facts surrounding a violation of Insurance Code section 750, subdivision (a) involved moral turpitude
In the Matter of Duxbury (Review Dept. 1999) 4 Cal. State Bar Ct. Rptr. 61
- Failure to appreciate seriousness of numerous violations
Walker v. State Bar (1989) 49 Cal.3d 1107
Ainsworth v. State Bar (1988) 46 Cal.3d 1218
In the Matter of Phillips (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 315
- Failure to comply with Rule 955
Dahlman v. State Bar (1990) 50 Cal.3d 1088 [790 P.2d 1322]
Bercovich v. State Bar (1990) 50 Cal.3d 116 [785 P.2d 889]
Powers v. State Bar (1988) 44 Cal.3d 337 [243 Cal.Rptr. 386]
Alborton v. State Bar (1987) 43 Cal.3d 638 [238 Cal.Rptr. 374]
In the Matter of Rose (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 646
In the Matter of Lynch (Review Dept. 1995) 3 Cal. State Bar Ct. Rptr. 287
- Failure to comply with Rule 956
In the Matter of Johnson (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 179
In the Matter of John Collier Pyle (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 929
- Failure to comply with Rule 958
Warden v. State Bar (1999) 21 Cal.4th 628
Greenberg v. State Bar of California (2000) 78 Cal.App.4th 39 [92 Cal.Rptr.2d 493]
- Failure to comply with State Bar investigation
Baca v. State Bar (1990) 52 Cal.3d 294
Conroy v. State Bar (1990) 51 Cal.3d 799
Middleton v. State Bar (1990) 51 Cal.3d 548
Walker v. State Bar (1989) 49 Cal.3d 1107
In the Matter of Bailey (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 220
In the Matter of Dahlz (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 269
In the Matter of Lais (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 112
In the Matter of Miller (Review Dept. 1990) 1 Cal. State Bar Ct. Rptr. 131
- Failure to file reports of employment taxes
In the Matter of Bouyer (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 888
- Failure to protect client's interests
Lewis v. State Bar (1981) 28 Cal.3d 683 [170 Cal.Rptr. 634, 621 P.2d 258]
In the Matter of Dahlz (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 269
In the Matter of Freydl (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 349
In the Matter of Phillips (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 315
In the Matter of Johnson (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 179
- Failure to render an appropriate accounting
In the Matter of Phillips (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 315
In the Matter of Lantz (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 126
- Failure to return promptly an unearned fee
In the Matter of Freydl (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 349
In the Matter of Phillips (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 315
In the Matter of Lantz (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 126
- Failure to supervise associate
Bernstein v. State Bar (1990) 50 Cal.3d 221 [786 P.2d 352]
In the Matter of Hinden (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 657
- Failure to supervise non-attorney employees
In the Matter of Phillips (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 315
- Federal court abstention from interference with a State Bar disciplinary proceeding
In re Franceschi (9th Cir. BAP 2001) 268 B.R. 219
- Federal court must afford due process before disbarment of attorney based on state court disciplinary adjudication
In re Kramer (9th Cir. 2002) 282 F.3d 721
- Federal courts review
suspension from federal practice is not dictated by state rules
In re Poole (9th Cir. BAP 2000) 222 F.3d 618
when State Bar has no procedure for review of letters of admonishment
Miller v. Washington State Bar Association (1982) 679 F.2d 1313
- Federal law does not preempt New York Bar Association Grievance Committee's authority to conduct investigation of patent attorney practicing before PTO
Schindler v. Finnerty (E.D.N.Y. 1999) 74 F.Supp.2d 253
- Federal law does not preempt State Bar of California's authority to discipline attorney for misconduct in immigration matters
In re Gadda (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 416
In re Valinoti (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 498
- Federal system has no uniform procedure for disciplinary proceedings
Standing Com. on Dis. of United States v. Ross (9th Cir. 1984) 735 F.2d 1168, 1170
- Frivolous allegations against judges
Standing Com. on Dis. of United States (9th Cir. 1984) 735 F.2d 1168, 1171
- Goal of Supreme Court
Smith v. State Bar (1984) 37 Cal.3d 17, 26
- Grounds and defenses
Leaf v. City of San Mateo (1984) 150 Cal.App.3d 1184, 1189
- Habitual disregard of client's interests
Coombs v. State Bar (1989) 49 Cal.3d 679 [262 Cal.Rptr. 554]
In the Matter of Phillips (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 315
- Harassment of client
In the Matter of Torres (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 138
- Hearing referee accused of being biased against respondent
In the Matter of Kueker (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 583
- Illegal drug transactions
In re Possino (1984) 37 Cal.3d 163, 169-170 [207 Cal.Rptr. 543, 689 P.2d 115]
conspiracy to distribute cocaine, conviction for
In re Meacham (1988) 47 Cal.3d 510
- Illegal fee
In re Blum (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 403
In the Matter of Phillips (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 315

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- In the Matter of Lantz (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 126
- Inducing client to withdraw disciplinary complaint
- In the Matter of Lais (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 907
- Intent
- circumstantial evidence can establish
- In the Matter of Petilla (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 231
- Intentional infliction of emotion distress
- In the Matter of Torres (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 138
- Interim suspension
- *In the Matter of Respondent M (Review Dept. 1993) 2 Cal. State Bar Ct. Rptr. 465
- credit for
- In the Matter of Katz (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 502
- Investigations
- Federal law does not preempt New York Bar Association Grievance Committee's authority to conduct investigation of patent attorney practicing before PTO
- Schindler v. Finnerty (E.D.N.Y. 1999) 74 F.Supp.2d 253
- Involuntary Inactive Enrollment
- In the Matter of Bailey (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 220
- Matter of Tiernan (Review Dept. 1996) 3 Cal. State Bar Ct. Rptr. 523
- In the Matter of Smith (Review Dept. 1995) 3 Cal. State Bar Ct. Rptr. 261
- *In the Matter of Heiner (Review Dept. 1993) 1 Cal. State Bar Ct. Rptr. 301
- not retroactively required upon a disbarment recommendation
- In the Matter of Phillips (Review Dept. 1999) 4 Cal. State Bar Ct. Rptr. 47
- Involuntary Inactive Status
- In the Matter of Mesce (Review Dept. 1994) 2 Cal. State Bar Ct. Rptr. 658
- amendment to § 6007(c)(4) allowing for automatic inactive enrollment, but may not be retroactively required upon a disbarment recommendation
- In the Matter of Phillips (Review Dept. 1999) 4 Cal. State Bar Ct. Rptr. 47
- procedures for enrollment of attorney satisfies due process requirements
- Conway v. State Bar (1989) 47 Cal.3d 1107 [255 Cal.Rptr. 390, 767 P.2d 657]
- Phillips v. State Bar (Review Dept. 1999) 4 Cal. State Bar Ct. Rptr. 47
- Jurisdiction
- California courts' non-disciplinary jurisdiction over non-resident California attorney
- Crea v. Busby (1996) 48 Cal.App.4th 509 [55 Cal.Rptr.2d 513]
- Edmunds v. Superior Court (1994) 24 Cal.App.4th 221
- inherent jurisdiction of the California Supreme Court
- In re Rose (2000) 22 Cal.4th 430 [83 Cal.Rptr.2d 298]
- over out-of-state arbitration representatives
- Code of Civil Procedure section 1282.4
- Labor Code violation
- Rhodes v. State Bar (1989) 49 Cal.3d 50 [260 Cal.Rptr. 266, 775 P.2d 1035]
- Lack of insight into wrongfulness of actions by attorney
- Carter v. State Bar (1988) 44 Cal.3d 1091 [245 Cal.Rptr. 628]
- Sodikoff v. State Bar (1975) 14 Cal.3d 422, 432 [121 Cal.Rptr. 467, 535 P.2d 331]
- In the Matter of Phillips (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 315
- In the Matter of Jenkins (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 157
- In the Matter of Lais (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 112
- In the Matter of Wyshak (Review Dept. 1999) 4 Cal. State Bar Ct. Rptr. 70
- Malicious prosecution charges against disciplinary complainant not permissible as public policy
- Stanwick v. Horne (1983) 146 Cal.App.3d 450
- Manslaughter
- In re Nevill (1985) 39 Cal.3d 729 [217 Cal.Rptr. 241]
- Mental examination order requires showing of good cause and least intrusive means
- *In the Matter of Respondent B (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 424
- Misappropriation of client's funds
- Grim v. State Bar (1991) 53 Cal.3d 21
- Snyder v. State Bar (1990) 49 Cal.3d 1302
- Baker v. State Bar (1989) 49 Cal.3d 804
- Weller v. State Bar (1989) 49 Cal.3d 670 [262 Cal.Rptr. 549, 779 P.2d 293]
- Chang v. State Bar (1989) 49 Cal.3d 114 [260 Cal.Rptr. 280, 775 P.2d 1049]
- Weber v. State Bar (1988) 47 Cal.3d 492
- Bate v. State Bar (1983) 34 Cal.3d 920 [196 Cal.Rptr. 209]
- Edmundson v. State Bar (1981) 29 Cal.3d 339 [172 Cal.Rptr. 899, 625 P.2d 812]
- Comden v. Superior Court (1978) 20 Cal.3d 906, 915
- In the Matter of Freydl (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 349
- In the Matter of Kauffman (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 213
- In the Matter of Lantz (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 126
- In the Matter of Moriarty (Review Dept. 1999) 4 Cal. State Bar Ct. Rptr. 9
- In the Matter of Silver (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 902
- warrants discipline even absent finding that attorney's conduct willful
- Guzzetta v. State Bar (1987) 43 Cal.3d 962 [239 Cal.Rptr. 675]
- Misappropriation of firm's funds
- attorney disbarred for misappropriating funds during breakup of firm
- Morales v. State Bar (1988) 44 Cal.3d 1037 [245 Cal.Rptr. 398, 751 P.2d 457]
- Misconduct in another jurisdiction
- In re Kramer (9th Cir. 2002) 282 F.3d 721
- In the Matter of Freydl (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 349
- In the Matter of Kauffman (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 213
- In the Matter of Jenkins (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 157
- Misconduct prior to admission to the State Bar
- Stratmore v. State Bar (1975) 14 Cal.3d 887 [123 Cal.Rptr. 101]
- In the Matter of Ike (Review Dept. 1996) 3 Cal. State Bar Ct. Rptr. 483
- In the Matter of Lybbert (Review Dept. 1994) 2 Cal. State Bar Ct. Rptr. 297
- In the Matter of Passenheim (Review Dept. 1994) 2 Cal. State Bar Ct. Rptr. 62
- Misleading hearing panel as aggravating circumstance in imposition of discipline
- Franklin v. State Bar (1986) 41 Cal.3d 700 [224 Cal.Rptr. 705]
- Mismanagement of client's trust by attorney trustee
- Schneider v. State Bar (1987) 43 Cal.3d 784 [239 Cal.Rptr. 111]
- Mitigating circumstances
- Edwards v. State Bar (1990) 52 Cal.3d 28
- Young v. State Bar (1990) 50 Cal.3d 1204 [791 P.2d 994]
- Friedman v. State Bar (1990) 50 Cal.3d 235
- Bercovich v. State Bar (1990) 50 Cal.3d 116
- Silva-Vidor v. State Bar (1989) 49 Cal.3d 1071
- Baker v. State Bar (1989) 49 Cal.3d 804
- Weller v. State Bar (1989) 49 Cal.3d 670 [262 Cal.Rptr. 549]
- Coombs v. State Bar (1989) 49 Cal.3d 679 [262 Cal.Rptr. 554]
- In re Young (1989) 49 Cal.3d 257 [261 Cal.Rptr. 59]

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- Ainsworth v. State Bar (1988) 46 Cal.3d 1218
Gary v. State Bar (1988) 44 Cal.3d 820 [244 Cal.Rptr. 482]
In re Nadrich (1988) 44 Cal.3d 271 [243 Cal.Rptr. 218]
Mephram v. State Bar (1986) 42 Cal.3d 943
In Re Severo (1986) 41 Cal.3d 493 [224 Cal.Rptr. 108]
Tarver v. State Bar (1984) 37 Cal.3d 122, 134 [207 Cal.Rptr. 302]
Smith v. State Bar (1984) 37 Cal.3d 17, 24
Chefsky v. State Bar (1984) 36 Cal.3d 116, 132-133
Jackson v. State Bar (1979) 23 Cal.3d 509 [153 Cal.Rptr. 24, 591 P.2d 47]
In re Blum (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 403
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In the Matter of Taggart (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 302
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In the Matter of Torres (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 138
In the Matter of Duxbury (Review Dept. 1999) 4 Cal. State Bar Ct. Rptr. 61
In the Matter of Silver (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 902
In the Matter of Doran (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 871
 alcohol dependency
Harford v. State Bar (1990) 52 Cal.3d 93
Bates v. State Bar (1990) 51 Cal.3d 1056
In re Billings (1990) 50 Cal.3d 358 [787 P.2d 617]
Slavkin v. State Bar (1990) 49 Cal.3d 894 [264 Cal.Rptr. 131]
 candor and cooperation
In re Blum (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 403
In the Matter of Freydl (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 349
 character evidence
In re Blum (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 403
In the Matter of Kauffman (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 213
In the Matter of Lantz (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 126
 community activities
In the Matter of Lais (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 112
+In the Matter of Aguiluz (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 32
 consideration must be given to when imposing discipline
Hipolito v. State Bar (1989) 48 Cal.3d 621, 257 Cal.Rptr. 331 [770 P.2d 743]
 drug addiction
Stanley v. State Bar (1990) 50 Cal.3d 555 [788 P.2d 697]
Twohy v. State Bar (1989) 48 Cal.3d 502 [256 Cal.Rptr. 794, 769 P.2d 976]
In re Demergian (1989) 48 Cal.3d 284 [256 Cal.Rptr. 392, 768 P.2d 1069]
Rosenthal v. State Bar (1987) 43 Cal.3d 658 [238 Cal.Rptr. 394]
In re Possino (1984) 37 Cal.3d 163, 171-172 [207 Cal.Rptr. 543, 689 P.2d 115]
 extreme emotional difficulties
Porter v. State Bar (1990) 52 Cal.3d 518
In re Naney (1990) 51 Cal.3d 186 [793 P.2d 54]
In re Blum (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 403
 factual stipulation, very limited mitigation for
In the Matter of Johnson (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 179
 financial difficulties, if extreme and unforeseeable or beyond the attorney's control
In the Matter of Taggart (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 302
 good character
In the Matter of Kauffman (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 213
In the Matter of Chestnut (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 166
 heavy caseload at time of misconduct is not mitigation
In re Naney (1991) 51 Cal.3d 186
In the Matter of Bach (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 631
 incurable personality disorder not mitigating circumstance
Phillips v. State Bar (1989) 49 Cal.3d 944
 isolated and relatively minor incident
In the Matter of Respondent G (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 175
 lack of prior discipline
Friedman v. State Bar (1990) 50 Cal.3d 235 [786 P.2d 359]
Galardi v. State Bar (1987) 43 Cal.3d 683 [238 Cal.Rptr. 774]
In re Blum (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 403
In re Peavey (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 483
In the Matter of Kauffman (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 213
In the Matter of Petilla (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 231
In the Matter of Lais (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 112
In the Matter of Sullivan, II (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 608
In re Michael Brown (1995) 12 Cal.4th 205
 -entitled to very little weight when attorney had practiced law for only seven years before start of misconduct
In the Matter of Lantz (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 126
 -not mitigating factor where attorney only in practice for a brief time
Amante v. State Bar (1990) 50 Cal.3d 247 [786 P.2d 375]
 lack of prior disciplinary record, no bar to discipline when numerous serious acts of misconduct
Weber v. State Bar (1988) 47 Cal.3d 492
 lengthy period of exemplary behavior
In the Matter of DeMassa (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 737
 marital stress
Kaplan v. State Bar (1991) 52 Cal.3d 1067
Friedman v. State Bar (1990) 50 Cal.3d 235, 245
In re Blum (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 403
 membership in a foreign/sister state
+In the Matter of Aguiluz (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 32
 mental illness
In re Possino (1984) 37 Cal.3d 163, 171-172 [207 Cal.Rptr. 543, 689 P.2d 115]
In the Matter of Torres (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 138
 murder of respondent's son as severe emotional stress
+In the Matter of Aguiluz (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 32
 no financial loss to anyone
In the Matter of Kauffman (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 213
 objective steps taken to atone for consequences of misconduct
In re Blum (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 403

DISCIPLINARY ACTION

- passage of considerable time without evidence of further misconduct
In the Matter of Kauffman (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 213
- pro bono work
Gadda v. State Bar (1990) 50 Cal.3d 344
Hawk v. State Bar (1988) 45 Cal.3d 589 [247 Cal.Rptr. 599, 754 P.2d 1096]
In re Peavey (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 483
In the Matter of Chestnut (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 166
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In the Matter of Torres (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 138
In the Matter of Bach (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 631
- slight credit
In the Matter of Dahlz (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 269
In the Matter of Phillips (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 315
- prompt, willing attempt to resolve disciplinary proceeding
In the Matter of Kauffman (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 213
- remorse and sorrow in accepting responsibility for conduct
In re Crooks (1990) 51 Cal.3d 1090
- respondent's claim of inadequate time to prepare and present evidence of mitigation
In the Matter of Tindall (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 652
- stress associated with illness in the family
In re Crooks (1990) 51 Cal.3d 1090
- youth and inexperience not mitigating in misappropriation setting
Amante v. State Bar (1990) 50 Cal.3d 247 [786 P.2d 375]
- Monetary sanctions against law firm for aiding in unauthorized practice of law
In re Carlos (C.D. Cal. 1998) 227 B.R. 535 [3 Cal.Bankr.Ct.Rep. 80]
- Multiple complaints
Smith v. State Bar (1986) 38 Cal.3d 525 [213 Cal.Rptr. 236]
- Need to maintain high ethical standards
Comden v. Superior Court (1978) 20 Cal.3d 906, 915
- Nolo contendere plea sufficient proof of guilt
Business and Professions Code section 6101
In re Gross (1983) 33 Cal.3d 561 [189 Cal.Rptr. 848, 659 P.2d 1137]
- Notice of disciplinary charges
In the Matter of Silverton (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 252
- Notice to show cause
In the Matter of Glasser (Review Dept. 1990) 1 Cal. State Bar Ct. Rptr. 163
allegation of a Bus. & Prof. Code, § 6106 violation encompasses a lesser allegation of a rule violation for misuse of trust funds when the pleading clearly raises such issue
In the Matter of Respondent F (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 17
- reciprocal disbarment
In re Kramer (9th Cir. 2002) 282 F.3d 721
- violations not alleged in notice
Edwards v. State Bar (1990) 52 Cal.3d 28
In re Valinoti (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 498
In the Matter of Koehler (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 615
In the Matter of Respondent D (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 517
- Participate in
solely to obtain advantage in civil matter
Rule 7-104, Rules of Professional Conduct (operative until May 26, 1993)
Rule 5-100, Rules of Professional Conduct (operative effective May 27, 1993)
- Partnership with a non-attorney
In the Matter of Phillips (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 315
- Permitting client trust account to fall below amount due client
Warner v. State Bar (1983) 34 Cal.3d 36
- Persistent inability to adhere to duties of an attorney
In the Matter of Lantz (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 126
- Petition to set aside order for interim suspension
In the Matter of Meza (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 608
- Post-misconduct behavior
effect on discipline imposed
Cooper v. State Bar (1987) 43 Cal.3d 1016
- Preemption
Federal law does not preempt New York Bar Association Grievance Committee's authority to conduct investigation of patent attorney practicing before PTO
Schindler v. Finnerty (E.D.N.Y. 1999) 74 F.Supp.2d 253
Federal law does not preempt State Bar of California's authority to discipline attorney for misconduct in immigration matters
In re Gadda (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 416
In re Valinoti (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 498
- Pretrial discovery by accused attorney
Brotsky v. State Bar (1962) 57 Cal.2d 287
- Prior disciplinary action considered
Arm v. State Bar (1990) 50 Cal.3d 763 [268 Cal.Rptr. 741, 789 P.2d 922]
Gary v. State Bar (1988) 44 Cal.3d 820
Alberton v. State Bar (1984) 37 Cal.3d 1, 16
In the Matter of Freydl (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 349
In the Matter of Chestnut (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 166
In the Matter of Johnson (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 179
In the Matter of Posthuma (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 813
- Private reproof
may be disclosed on the State Bar's website
Mack v. State Bar of California (2001) 92 Cal.App.4th 957 [112 Cal.Rptr.2d 341]
- Probation conditions
abstention from all gambling
In the Matter of Petilla (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 231
attendance at Gamblers Anonymous meetings not warranted
In the Matter of Petilla (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 231
- Probation modification ruling
standard of review, abuse of discretion, or error of law
In the Matter of Taggart (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 302
- Probation violations
failure to appear in a probation violation proceeding
In the Matter of Freydl (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 349
failure to comply with conditions
In the Matter of Freydl (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 349
In the Matter of Taggart (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 302
In the Matter of Johnson (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 179
In the Matter of Rodriguez (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 884

DISCIPLINARY ACTION

- failure to comply with conditions of private reproof
 - warrants 90-day suspension
 - In the Matter of Meyer (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 697
 - warrants public reproof
 - In the Matter of Posthuma (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 813
- failure to make restitution payments
 - In the Matter of Taggart (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 302
 - In the Matter of Johnson (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 179
- misguided labels of "substantial," "insubstantial" and "technical" violations
 - In the Matter of Kueker (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 583
- probation reporting requirements
 - In the Matter of Johnson (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 179
 - In the Matter of Weiner (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 759
- probation revocation case remanded to the hearing judge re modification of a probation condition
 - In the Matter of Parker (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 754
- probation revoked for failing to fully comply with probation requirements
 - In the Matter of Taggart (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 302
 - +In the Matter of John Henry Hunter (Review Dept. 1994) 3 Cal. State Bar Ct. Rptr. 81; mod. at 3 Cal. State Bar Ct. Rptr. 89
 - In the Matter of Carr (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 108
- sparse record requires remand
 - In the Matter of Rodriguez (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 884
- Procedures
 - modification of stipulations
 - Wells v. State Bar (1984) 36 Cal.3d 199, 205-207
 - overview of procedures and review
 - In re Rose (2000) 22 Cal.4th 430 [83 Cal.Rptr.2d 298]
 - partial stipulation to facts binds the parties
 - In the Matter of Rodriguez (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 884
 - parties bound by stipulated facts despite judge's rejection of stipulation
 - In the Matter of Silver (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 902
 - Rules of Practice Before the State Bar Court and Rules of Procedure of the State Bar Court
 - Text is located in:
 - Deerings Annotated California Codes, Court Rules, and in
 - West's Annotated California Codes, Court Rules, vol. 23, pt 3
 - Text available through State Bar's home page:
 - <http://www.calbar.ca.gov>
- Public Reproof is not sufficient discipline after conviction for not paying tax amounts withheld from employee wages
 - +In the Matter of John Michael Brown (Review Dept. 1995) 3 Cal. State Bar Ct. Rptr. 233
- Purpose
 - In re Billings (1990) 50 Cal.3d 358 [787 P.2d 617]
 - Tarver v. State Bar (1984) 37 Cal.3d 122, 133 [207 Cal.Rptr. 302]
 - In the Matter of Petilla (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 231
- preservation of public confidence
 - Gordon v. State Bar (1982) 31 Cal.3d 748, 758
 - In the Matter of Petilla (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 231
- protection of the public
 - Young v. State Bar (1990) 50 Cal.3d 1204
 - Porter v. State Bar (1990) 52 Cal.3d 518
 - Edwards v. State Bar (1990) 52 Cal.3d 28
 - Rhodes v. State Bar (1989) 49 Cal.3d 50 [260 Cal.Rptr. 266, 775 P.2d 1035]
 - In re Severo (1986) 41 Cal.3d 493
 - Gordon v. State Bar (1982) 31 Cal.3d 748, 758 [183 Cal.Rptr. 861, 647 P.2d 137]
 - In re Gadda (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 416
 - In re Valinoti (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 498
 - In the Matter of Petilla (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 231
 - In the Matter of Moriarty (Review Dept. 1999) 4 Cal. State Bar Ct. Rptr. 9
 - maintain highest professional standards, preserve integrity of and confidence in the legal profession
 - Conroy v. State Bar (1990) 51 Cal.3d 799
 - Bate v. State Bar (1983) 34 Cal.3d 920 [196 Cal.Rptr. 209, 671 P.2d 360]
- Purview of Supreme Court, not Labor Board
 - Katz v. Worker's Comp. Appeals (1981) 30 Cal.3d 353 [178 Cal.Rptr. 815, 636 P.2d 1153]
- Reciprocal Disbarment
 - In re Kramer (9th Cir. 2002) 282 F.3d 721
- Recommendation extending actual suspension until compliance with rule 205 of Rules of Procedure of the State Bar, title II, State Bar Court Proceedings
 - recommendation must state definite period of actual suspension and, if appropriate, stayed suspension
 - In the Matter of Stansbury (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 103
- Rehabilitation
 - bankruptcy discharge of debts to clients considered indicator of lack of rehabilitation
 - Hippard v. State Bar (1989) 49 Cal.3d 1084 [264 Cal.Rptr. 684, 782 P.2d 1140]
 - discipline requirement of demonstrating learning in general law found unjustified
 - Snyder v. State Bar (1990) 49 Cal.3d 1302
 - under stds. 1.3 and 1.4(c)(ii), Stds. for Atty. Sanctions for Prof. Misconduct
 - In the Matter of Murphy, Jr. (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 571
- Reinstatement
 - Calaway v. State Bar (1986) 41 Cal.3d 743
 - In re Bodell (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 459
 - In the Matter of Salant (Review Dept. 1999) 4 Cal. State Bar Ct. Rptr. 1
 - bankruptcy discharge of debts to clients considered indicator of lack of rehabilitation
 - Hippard v. State Bar (1989) 49 Cal.3d 1084 [264 Cal.Rptr. 684, 782 P.2d 1140]
 - omitting material information from reinstatement application
 - In the Matter of Giddens (Review Dept. 1990) 1 Cal. State Bar Ct. Rptr. 25
 - unauthorized practice of law and lack of candor demonstrated the lack of moral reform that is necessary for reinstatement
 - In the Matter of Kirwan (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 630
- Remand for retrial due to inconsistent findings and conclusions
 - *In the Matter of Temkin (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 321
- Reproof
 - In the Matter of Respondent Z (Review Dept. 1999) 4 Cal. State Bar Ct. Rptr. 85
- Requirements for reinstatement
 - In the Matter of Distefano (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 668

DISCIPLINARY ACTION

Restitution

bankruptcy does not bar order of restitution as part of attorney discipline

Brookman v. State Bar (1988) 46 Cal.3d 1004

In the Matter of Petilla (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 231

In the Matter of Taggart (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 302

condition of probation intended to promote rehabilitation

Sorensen v. State Bar (1991) 52 Cal.3d 1036

In the Matter of Petilla (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 231

In the Matter of Taggart (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 302

considerations of due process and fundamental fairness

In the Matter of Taggart (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 302

not a means of awarding tort damages for legal malpractice

In the Matter of Torres (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 138

not a means of compensating the victim of wrongdoing

In the Matter of Petilla (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 231

willful failure to comply with restitution duties of probation

In the Matter of Taggart (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 302

In the Matter of Johnson (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 179

In the Matter of Potack (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 525

RICO and Sherman Antitrust Act not a defense

Lebbos v. State Bar (1991) 53 Cal.3d 37

Rules of Professional Conduct in effect at relevant times used as basis for discipline

Friedman v. State Bar (1990) 50 Cal.3d 235

Bernstein v. State Bar (1990) 50 Cal.3d 221

Scope of review

In re Rose (2000) 22 Cal.4th 430 [83 Cal.Rptr.2d 298]

Rossman v. State Bar (1985) 39 Cal.3d 539 [216 Cal.Rptr. 919, 703 P.2d 390]

Tarver v. State Bar (1984) 37 Cal.3d 122, 131-132 [207 Cal.Rptr. 302]

In the Matter of Johnson (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 179

Selective prosecution claim is found to be without merit

In the Matter of Bach (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 631

Serious and repeated misconduct

In re Trebilcock (1981) 30 Cal.3d 312 [178 Cal.Rptr. 630, 636 P.2d 594]

In the Matter of Moriarty (Review Dept. 1999) 4 Cal. State Bar Ct. Rptr. 9

Service of decision

In the Matter of Petilla (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 231

Sharing legal fee with a non-attorney

In the Matter of Phillips (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 315

Sovereign immunity of the State Bar as an arm of the state

In re Franceschi (9th Cir. BAP 2001) 268 B.R. 219

Standard for subjecting attorney to discipline -moral turpitude

In re Fahey (1973) 8 Cal.3d 842 [106 Cal.Rptr. 313, 505 P.2d 1369]

Standard of review

In re Rose (2000) 22 Cal.4th 430 [83 Cal.Rptr.2d 298]

Ainsworth v. State Bar (1988) 46 Cal.3d 1218

In the Matter of Taggart (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 302

In the Matter of Johnson (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 179

Standard of review by California Supreme Court

Segal v. State Bar (1988) 44 Cal.3d 1077 [245 Cal.Rptr. 404]

Galardi v. State Bar (1987) 43 Cal.3d 683

Alberton v. State Bar (1984) 37 Cal.3d 337

Standard of review by State Bar [Court] Review Department

In re Morse (1995) 11 Cal.4th 184, 207 [44 Cal.Rptr.2d 620]

In the Matter of Kauffman (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 213

In the Matter of Petilla (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 231

In the Matter of Wu (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 263

In the Matter of Murphy, Jr. (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 571

In the Matter of Respondent E (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 716

California Rules of Court, rule 951.5

In the Matter of Johnson (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 179

State Bar

advice of a State Bar employee cannot give attorney permission to violate the Rules of Professional Conduct or the Business and Professions Code

Sheffield v. State Bar (1943) 22 Cal.2d 627 [140 P.2d 376]

inherent power to discipline for conduct in or outside the profession

In re Scott (1991) 52 Cal.3d 968

lacks authority to discipline an attorney until final judgment of criminal conviction on appeal or the time for appeal has passed

In re Strick (1983) 34 Cal.3d 891 [196 Cal.Rptr. 293, 671 P.2d 125]

sui generis arm of the Supreme Court

In re Attorney Discipline System; Requests of the Governor and the State Bar (1999) 19 Cal.4th 582 [79 Cal.Rptr.2d 836, 967 P.2d 49]

In the Matter of Wu (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 263

Stipulation

partial stipulation to facts binds the parties

In the Matter of Rodriguez (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 884

parties bound by stipulated facts despite judge's rejection of stipulation

In the Matter of Silver (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 902

parties' inability to reach stipulated discipline does not affect analysis of mitigation

In the Matter of Silver (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 902

very limited mitigation for factual stipulation

In the Matter of Johnson (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 179

Substantial discipline

multiple violations

Finch v. State Bar (1981) 28 Cal.3d 659, 665 [170 Cal.Rptr. 629, 621 P.2d 253]

Substitution

failure to timely execute substitution of attorney form

Friedman v. State Bar (1990) 50 Cal.3d 235 [786 P.2d 359]

Sufficiency of evidence to sustain facts

Tarver v. State Bar (1984) 37 Cal.3d 122, 132-133 [207 Cal.Rptr. 302]

In the Matter of Petilla (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 231

In the Matter of Chestnut (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 166

In the Matter of Jenkins (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 157

Summary disbarment

In re Paguirigan (2001) 25 Cal.4th 1 [104 Cal.Rptr.2d 402, 17 P.3d 758]

In re Lesansky (2001) 25 Cal.4th 11 [104 Cal.Rptr.2d 409, 17 P.3d 764]

+In the Matter of Paguirigan (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 936

DISCOVERY

In the Matter of Salameh (Review Dept. 1994) 2 Cal. State Bar Ct. Rptr. 729

In the Matter of Segall (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 71

Business and Professions Code section 6102 (c) cannot be applied retroactively to summarily disbar an attorney for felony convictions

In the Matter of Jebbia (Review Dept. 1999) 4 Cal. State Bar Ct. Rptr. 51

In the Matter of Jolly (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 740

Supreme Court on recommendation of State Bar alone may issue disciplinary proceedings against an attorney

Husted v. Workers' Comp. Appeals Bd. (1981) 30 Cal.3d 329 [178 Cal.Rptr. 801, 636 P.2d 1139]

Threat to present disciplinary charges

to obtain advantage in civil action

Rule 7-104, Rules of Professional Conduct (operative until May 26, 1989)

Rule 5-100, Rules of Professional Conduct (operative as of May 27, 1989)

Untimely filing of decision

In the Matter of Petilla (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 231

Vicarious versus personal liability for another attorney's misconduct

Dudugjian v. State Bar (1991) 52 Cal.3d 1092

"Willful" defined for non-compliance with Rule of Court 955

Shapiro v. State Bar (1990) 51 Cal.3d 251 [794 P.2d 572]

Durbin v. State Bar (1979) 23 Cal.3d 461 [152 Cal.Rptr. 749]

Willful failure to communicate, and to perform services

Colangelo v. State Bar (1991) 53 Cal.3d 1255 [283 Cal.Rptr. 181]

Bach v. State Bar (1991) 52 Cal.3d 1201

King v. State Bar (1990) 52 Cal.3d 307

Baca v. State Bar (1990) 52 Cal.3d 294

Cannon v. State Bar (1990) 51 Cal.3d 1103

In re Billings (1990) 50 Cal.3d 235 [787 P.2d 617]

Twohy v. State Bar (1989) 48 Cal.3d 502 [256 Cal.Rptr. 794, 769 P.2d 976]

Garlow v. State Bar (1988) 44 Cal.3d 689 [244 Cal.Rptr. 452, 749 P.2d 1807]

McMorris v. State Bar (1983) 35 Cal.3d 78

In the Matter of Johnson (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 179

In the Matter of Tindall (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 652

In the Matter of Bach (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 631

In the Matter of Trillo (Review Dept. 1990) 1 Cal. State Bar Ct. Rptr. 59

"Willfulness" of violations

bad faith finding not required

McKnight v. State Bar (1991) 53 Cal.3d 1025

King v. State Bar (1990) 52 Cal.3d 307

Conroy v. State Bar (1990) 51 Cal.3d 799

Zitney v. State Bar (1966) 64 Cal.2d 787

"Willfulness" of violations

repeated failure to attend to client needs is attorney conduct which need not be shown to be willful

Kapelus v. State Bar (1987) 44 Cal.3d 179, 188

Van Sloten v. State Bar (1989) 48 Cal.3d 921, 932

In the Matter of Respondent G (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 175

Withdrawal from employment with prejudice to client is not a violation inconsistent with discipline for failure to communicate

In the Matter of Nunez (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 196

DISCOVERY [See Interrogatory, sanctions on motion to compel.]

Copy of results given to another lawyer with some interest in matter

LA(l) 1965-16

Sanctions not available to attorney who litigates in propria persona under CCP sections 2030(1) and 2023(b)(1)

Kravitz v. Superior Court (Milner) (2001) 91 Cal.App.4th 1015 [111 Cal.Rptr.2d 385]

Argaman v. Ratan (1999) 73 Cal.App.4th 1173 [86 Cal.Rptr.2d 917]

DISCRIMINATORY CONDUCT IN A LAW PRACTICE

Rule 2-400, Rules of Professional Conduct (operative as of March 1, 1994)

DISQUALIFICATION [See Conflict of interest, disqualification. Termination of attorney-client relationship. Withdrawal from employment.]

Attorney-client relationship must have existed before disqualification is proper

San Gabriel Basin Water Quality Authority v. Aerojet-General Corp. (C.D. Cal. 2000) 105 F.Supp.2d 1095

Strasbourg, Pearson, Tulcin, Wolff, Inc., et al. v. Wiz Technology (1999) 69 Cal.App.4th 1399 [82 Cal.Rptr.2d 326]

Responsible Citizens v. Superior Court (1993) 16 Cal.App.4th 1717, 1723

Attorney general – denied

Cornish v. Superior Court (1989) 209 Cal.App.3d 467

Attorney retained by insurer to represent insured does not have attorney-client relationship for purposes of

San Gabriel Basin Water Quality Authority v. Aerojet-General Corp. (C.D. Cal. 2000) 105 F.Supp.2d 1095

Attorney retained by insurer to represent insured has attorney-client relationship with insurer for purposes of

State Farm Mutual Automobile Insurance Company v. Federal Insurance Company (1999) 72 Cal.App.4th 1422 [86 Cal.Rptr.2d 20]

Authority of court

Cal Pak Delivery, Inc. v. United Parcel Service (1997) 52 Cal.App.4th 1 [60 Cal.Rptr.2d 207]

Comden v. Superior Court (1978) 20 Cal.3d 906, 914 fn. 4 [145 Cal.Rptr. 9, 576 P.2d 971]

Concurrent representation of adverse parties in separate matters is not cured by withdrawal from representation of the less favored client who explicitly refuses to consent

American Airlines v. Sheppard Mullin, Richter & Hampton (2002) 96 Cal.App.4th 1017 [117 Cal.Rptr.2d 685]

Metro-Goldwyn-Mayer v. Tracinda Corp. (1995) 36 Cal.App.4th 1832 [43 Cal.Rptr.2d 327]

Stanley v. Richmond (1995) 35 Cal.App.4th 1070

Buehler v. Sbardellati (1995) 34 Cal.App.4th 1527 [41 Cal.Rptr.2d 104]

Flatt v. Superior Court (1994) 9 Cal.4th 275 [36 Cal.Rptr.2d 537]

Truck Insurance Exchange v. Fireman's Fund Insurance (1992) 6 Cal.App.4th 1050 [8 Cal.Rptr.2d 228]

Concurrent representation of clients with adverse interests

State Farm Mutual Automobile Insurance Company v. Federal Insurance Company (1999) 72 Cal.App.4th 1422 [86 Cal.Rptr.2d 20]

Confidences of adversary

mere exposure to does not, standing alone, warrant disqualification

San Gabriel Basin Water Quality Authority v. Aerojet-General Corp. (C.D. Cal. 2000) 105 F.Supp.2d 1095

Neal v. Health Net, Inc. (2002) 100 Cal.App.4th 831 [123 Cal.Rptr.2d 202]

Strasbourg, Pearson, Tulcin, Wolff, Inc., et al. v. Wiz Technology (1999) 69 Cal.App.4th 1399 [82 Cal.Rptr.2d 326]

Confidences of the client

actual possession need not be proven – test

Global Van Lines v. Superior Court (1983) 144 Cal.App.3d 483, 489-490 [192 Cal.Rptr. 609]

rebuttable presumption of shared confidences among the attorneys in a firm

DISQUALIFICATION

- County of Los Angeles v. United States District Court (Forsyth) (9th Cir. 2000) 223 F.3d 990
vicarious disqualification where "of counsel" attorney and law firm represented opposing parties and where "of counsel" attorney obtained confidential information and provided legal services to client
People ex rel. Dept. of Corporations v. Speedee Oil Change Systems (1999) 20 Cal.4th 1135 [86 Cal.Rptr.2d 816]
- Disclosure of confidences of the client
Panduit Corp. v. All States Plastic Mfg. Co., Inc. (C.A. Fed. 1984) 744 F.2d 1564, 1577-1578
Gregori v. Bank of America (1989) 207 Cal.App.3d 291
- Disqualification denied because former legal secretary of defendant became a client, not an employee of attorney for plaintiff
Neal v. Health Net, Inc. (2002) 100 Cal.App.4th 831 [123 Cal.Rptr.2d 202]
- District attorney
conflict of interest requires a showing that the district attorney's discretionary decision-making has been placed within the influence and control of a private party with a particular interest in the prosecution of the defendant
People v. Eubanks (1996) 14 Cal.4th 580, 599 [59 Cal.Rptr.2d 200]
People v. Parmar (2001) 86 Cal.App.4th 781 [104 Cal.Rptr.2d 31]
disqualification based on private party influence on the impartiality of the district attorney
People v. Parmar (2001) 86 Cal.App.4th 781 [104 Cal.Rptr.2d 31]
entire office
People v. Eubanks (1996) 14 Cal.4th 580
People v. Parmar (2001) 86 Cal.App.4th 781 [104 Cal.Rptr.2d 31]
Lewis v. Superior Court (1977) 53 Cal.App.4th 1277 [62 Cal.Rptr.2d 331]
People v. Merriitt (1993) 19 Cal.App.4th 1573 [24 Cal.Rptr.2d 177]
People v. Conner (1983) 34 Cal.3d 141, 148-149
Williams v. Superior Court (1988) 198 Cal.App.3d 960
- Expert witness
Western Digital Corp. v. Superior Court (1998) 60 Cal.App.4th 1471 [71 Cal.Rptr.2d 179]
Toyota Motor Sales, U.S.A. v. Superior Court (1996) 46 Cal.App.4th 778 [54 Cal.Rptr.2d 22]
Shadow Traffic Network v. Superior Court (1994) 24 Cal.App.4th 1067 [29 Cal.Rptr.2d 693]
- Examine circumstances of each case
San Gabriel Basin Water Quality Authority v. Aerojet-General Corp. (C.D. Cal. 2000) 105 F.Supp.2d 1095
Adams v. Aerojet-General Corp. (2001) 86 Cal.App.4th 1324 [104 Cal.Rptr.2d 116]
Metro-Goldwyn-Mayer v. Tracinda Corp. (1995) 36 Cal.App.4th 1832 [43 Cal.Rptr.2d 327]
In re Complex Asbestos Litigation (1991) 232 Cal.App.3d 572 [283 Cal.Rptr. 732]
William H. Raley Co. v. Superior Court (1983) 149 Cal.App.3d 1042, 1049 [197 Cal.Rptr. 232]
- Extended to law firm
Chronometrics, Inc. v. Sysgen, Inc. (1980) 110 Cal.App.3d 597, 608 [168 Cal.Rptr. 196]
- Financial management company
LA 372 (1978)
- Financial state in action
People ex rel. Clancy v. Superior Court (1985) 39 Cal.3d 740 [218 Cal.Rptr. 24, 705 P.2d 347]
- Former client ordinarily must be the moving party to seek disqualification based on a conflict of interest
Colyer v. Smith (C.A. Cal. 1999) 50 F.Supp.2d 966
- Grand jury
Sixth Amendment right to counsel of one's choice does not apply
In re Grand Jury Investigation (9th Cir. 1999) 182 F.3d 668
- Marital relationship or "appearance of impropriety" insufficient to deprive party of choice of counsel
DCH Health Services Corp. v. Waite (2002) 95 Cal.App.4th 829 [115 Cal.Rptr.2d 847]
Mediator is generally not disqualified from litigating later cases against the same party
Barajas v. Oren Realty and Development Co. (1997) 57 Cal.App.4th 209 [67 Cal.Rptr.2d 62]
Motion for disqualification that is still pending does not automatically require stay of all trial matters
Reed v. Superior Court (Case Financial) (2001) 92 Cal.App.4th 448, mod. at 92 Cal.App.4th 1346B [111 Cal.Rptr.2d 842]
Motion must be timely filed
Forrest v. Baeza (1997) 58 Cal.App.4th 65 [67 Cal.Rptr.2d 857]
River West, Inc. v. Nickel (1987) 188 Cal.App.3d 1297, 1311
Kearns v. Fred Lavery Porsche Audi Co. (C.A. Fed. 1984) 745 F.2d 600, 605
- Multiple representation of a claimant and the compensation insurance carrier against whom the claim is being made
Smiley v. Director, Office of Workers' Compensation Programs (9th Cir. 1992) 973 F.2d 1463
- Non-client litigant has no standing to assert conflict and no expectation of confidentiality
DCH Health Services Corp. v. Waite (2002) 95 Cal.App.4th 829 [115 Cal.Rptr.2d 847]
- Non-client litigant must establish a personal stake in a motion to disqualify
Colyer v. Smith (C.A. Cal. 1999) 50 F.Supp.2d 966
- Notice of motion to disqualify a district attorney
Penal Code section 1424
- Paralegal "switches sides"
In re Complex Asbestos Litigation (1991) 232 Cal.App.3d 572 [283 Cal.Rptr. 732]
- Penal Code § 1424 prosecuting attorney's conflict of interest
People v. Parmar (2001) 86 Cal.App.4th 781 [104 Cal.Rptr.2d 31]
In re Marriage of Abernethy (1992) 5 Cal.App.4th 1193 [7 Cal.Rptr.2d 342]
- Possibility of breach of client confidences
Trone v. Smith (9th Cir. 1980) 621 F.2d 994, 999
- Presumption of shared confidences
W. L. Gore & Assoc. v. Intern. Medical Prosthetics (1984) 745 F.2d 1463
rebuttable
County of Los Angeles v. United States District Court (Forsyth) (9th Cir. 2000) 223 F.3d 990
- Prior relationship with opposing party
Allen v. Academic Games League of America (1993) 831 F.Supp. 785
San Gabriel Basin Water Quality Authority v. Aerojet-General Corp. (C.D. Cal. 2000) 105 F.Supp.2d 1095
Wutchurna Water Co. v. Bailey (1932) 216 Cal. 564, 574 [155 P.2d 505]
Adams v. Aerojet-General Corp. (2001) 86 Cal.App.4th 1324 [104 Cal.Rptr.2d 116]
Western Continental Operating Co. v. Natural Gas Corp. (1989) 212 Cal.App.3d 752 [261 Cal.Rptr. 100]
Quaglino v. Quaglino (1979) 88 Cal.App.3d 542, 550 [152 Cal.Rptr. 47]
- Prior relationship with opposing party's insurer
San Gabriel Basin Water Quality Authority v. Aerojet-General Corp. (C.D. Cal. 2000) 105 F.Supp.2d 1095
- Prior representation of opposing party
Bankruptcy of Mortgage & Realty Trust (1996) 195 B.R. 740
Damron v. Herzog, Jr. (9th Cir. 1995) 67 F.3d 211
City National Bank v. Adams (2002) 96 Cal.App.4th 315 [117 Cal.Rptr.2d 125]
Metro-Goldwyn-Mayer, Inc. v. Tracinda Corp. (1995) 36 Cal.App.4th 1832 [43 Cal.Rptr. 327]
Flatt v. Superior Court (1994) 9 Cal.4th 275 [36 Cal.Rptr. 537] [36 Cal.Rptr.2d 537]
Elan Transdermal Limited v. Cygnus Therapeutic Systems (N.D. Cal. 1992) 809 F.Supp. 1383

DISTRICT/MUNICIPAL ATTORNEY

- In re Marriage of Zimmerman (1993) 16 Cal.App.4th 556 [20 Cal.Rptr.2d 132]
Trone v. Smith (9th Cir. 1980) 621 F.2d 994
In re Airport Car Rental Antitrust Litigation (N.D. Cal. 1979) 470 F.Supp. 495, 499
Rosenfeld Construction v. Superior Court (1991) 235 Cal.App.3d 566
Dill v. Superior Court (1984) 158 Cal.App.3d 301
Global Van Lines v. Superior Court (1983) 144 Cal.App.3d 483 [192 Cal.Rptr. 609]
Jacuzzi v. Jacuzzi Bros. (1963) 218 Cal.App.2d 24, 27-30
In the Matter of Lane (Review Dept. 1994) 2 Cal. State Bar Ct. Rptr. 735
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unrelated matter
Flatt v. Superior Court (1994) 9 Cal.4th 275 [36 Cal.Rptr.2d 537]
Truck Insurance Exchange v. Fireman's Fund Insurance Co. (1992) 6 Cal.App.4th 1050 [8 Cal.Rptr.2d 228]
Cohn v. Rosenfeld (9th Cir. 1984) 733 F.2d 625
Jeffry v. Pounds (1977) 67 Cal.App.3d 611
- Raised on appeal from final judgment
requires showing that denial of motion affected outcome of case
In re Sophia Rachel B. (1988) 203 Cal.App.3d 1436 [250 Cal.Rptr. 802]
- Required when attorneys change sides in factually related cases
Trone v. Smith (9th Cir. 1980) 621 F.2d 994, 1000-1001
- Review procedures for denial of motion to disqualify
People v. Broxson (1991) 228 Cal.App.3d 977 [278 Cal.Rptr. 917]
- Risk of disclosure of confidential information
American Airlines v. Sheppard Mullin, Richter & Hampton (2002) 96 Cal.App.4th 1017 [117 Cal.Rptr.2d 685]
William H. Raley Co. v. Superior Court (1983) 149 Cal.App.3d 1042, 1050
Chambers v. Superior Court (1981) 121 Cal.App.3d 893, 898 [175 Cal.Rptr. 575]
rebuttable presumption of shared confidences among the attorneys in a firm
County of Los Angeles v. United States District Court (Forsyth) (9th Cir. 2000) 223 F.3d 990
vicarious disqualification where "of counsel" attorney and law firm represented opposing parties and where "of counsel" attorney obtained confidential information and provided legal services to client
People ex rel. Dept. of Corporations v. Speedee Oil Change Systems (1999) 20 Cal.4th 1135 [86 Cal.Rptr.2d 816]
- Services never performed for former client of attorney's former firm
San Gabriel Basin Water Quality Authority v. Aerojet-General Corp. (C.D. Cal. 2000) 105 F.Supp.2d 1095
Dieter v. Regents of the University of California (E.D. Cal. 1997) 963 F.Supp. 908
Adams v. Aerojet-General Corp. (2001) 86 Cal.App.4th 1324 [104 Cal.Rptr.2d 116]
- Sixth Amendment
no right to counsel of one's choice in a grand jury investigation
In re Grand Jury Investigation (9th Cir. 1999) 182 F.3d 668
- Timeliness of mitigation claims
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- Vicarious to law firm
In re S.S. Retail Stores Corp. (9th Cir. 2000) 216 F.3d 882 [36 Bankr.Ct.Dec. 79]
Bankruptcy of Mortgage and Realty Trust (1996) 195 B.R. 740
Allen v. Academic Games League of America (1993) 831 F.Supp. 785
Atasi Corp. v. Seagate Technology (9th Cir. 1988) 847 F.2d 826
W. L. Gore & Assoc. v. Intern. Medical Prosthetics (1984) 745 F.2d 1463, 1466-1467
Frazier v. Superior Court (Ames) (2002) 97 Cal.App.4th 23 [118 Cal.Rptr.2d 129]
Henriksen v. Great American Savings and Loan (1992) 11 Cal.App.4th 109 [14 Cal.Rptr.2d 184]
- Higdon v. Superior Court (1991) 227 Cal.App.3d 1667 [278 Cal.Rptr. 588]
Klein v. Superior Court (1988) 148 Cal.App.3d 894
William H. Raley Co. v. Superior Court (1983) 149 Cal.App.3d 1042, 1048-1049 [197 Cal.Rptr. 232]
CAL 1998-152
attorney and associates involved in matters
Global Van Lines v. Superior Court (1983) 144 Cal.App.3d 483, 490 [192 Cal.Rptr. 609]
hardship to client
San Gabriel Basin Water Quality Authority v. Aerojet-General Corp. (C.D. Cal. 2000) 105 F.Supp.2d 1095
Chambers v. Superior Court (1981) 121 Cal.App.3d 893, 899, 903 [175 Cal.Rptr. 575]
not automatic
County of Los Angeles v. United States District Court (Forsyth) (9th Cir. 2000) 223 F.3d 990
San Gabriel Basin Water Quality Authority v. Aerojet-General Corp. (C.D. Cal. 2000) 105 F.Supp.2d 1095
Adams v. Aerojet-General Corp. (2001) 86 Cal.App.4th 1324 [104 Cal.Rptr.2d 116]
where attorney at law firm covers depositions for independent counsel
Frazier v. Superior Court (Ames) (2002) 97 Cal.App.4th 23 [118 Cal.Rptr.2d 129]
where "of counsel" attorney and law firm represented opposing parties and where "of counsel" attorney obtained confidential information and provided legal services to client
People ex rel. Dept. of Corporations v. Speedee Oil Change Systems (1999) 20 Cal.4th 1135 [86 Cal.Rptr.2d 816]
- When attorney acts as witness
Comden v. Superior Court (1978) 20 Cal.3d 906, 914 fn. 4 [145 Cal.Rptr. 9, 576 P.2d 971]
- When misconduct or status has a continuing effect on judicial proceedings
Cal Pak Delivery, Inc. v. United Parcel Service (1997) 52 Cal.App.4th 1 [60 Cal.Rptr.2d 207]
Chronometrics, Inc. v. Sysgen, Inc. (1980) 110 Cal.App.3d 597, 607 [168 Cal.Rptr. 196]
- ## DISTRICT/MUNICIPAL ATTORNEY
- Misconduct by [See Prosecutorial misconduct.]
- ## DIVISION OF FEES
- [See Fee. Lay intermediaries. Partnership.]
Rules 2-102(A), 2-108 and 3-102, Rules of Professional Conduct (operative until May 26, 1989)
Rules 1-600, 2-200 and 1-320, Rules of Professional Conduct (operative as of May 27, 1989)
LA 503 (2000)
- Between attorneys
Farmers Insurance Exchange v. Law Offices of Conrado Joe Sayas, Jr. (9th Cir. 2001) 250 F.3d 1234
Chambers v. Kay (2002) 29 Cal.4th 142 [126 Cal.Rptr.2d 536]
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Sims v. Charness (2001) 86 Cal.App.4th 884 [103 Cal.Rptr.2d 619]
Margolin v. Shemaria (2000) 85 Cal.App.4th 891 [102 Cal.Rptr.2d 502]
City of Morgan Hill v. Brown (1999) 71 Cal.App.4th 1114 [84 Cal.Rptr.2d 361]
Compagna v. City of Sanger (1996) 42 Cal.App.4th 533 [49 Cal.Rptr.2d 676]
Scolinos v. Kolts (1995) 37 Cal.App.4th 635 [44 Cal.Rptr.2d 31]
Emmons, Williams, Mires & Leech v. State Bar (1970) 6 Cal.App.3d 565
Kallen v. Delug (1984) 157 Cal.App.3d 940 [203 Cal.Rptr. 879]
Moran v. Harris (1982) 131 Cal.App.3d 913 [182 Cal.Rptr. 519]
Breckler v. Thaler (1978) 87 Cal.App.3d 189, 194-197 [151 Cal.Rptr. 50]
Altschul v. Sayble (1978) 83 Cal.App.3d 153, 159-164 [147 Cal.Rptr. 716]

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Bunn v. Lucas, Pino & Lucas (1959) 172 Cal.App.2d 450 [342 P.2d 508]
Turner v. Donovan (1935) 3 Cal.App.2d 485, 488
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 LA 385 (1980), LA 204 (1953), LA(l) 1965-5
 SF 1980-1
 association of outside counsel not a basis for exemption from 2-200 requirements
Chambers v. Kay (2002) 29 Cal.4th 142 [126 Cal.Rptr.2d 536]
 attorney fees may be awarded to attorneys who represent each other in fee dispute with client that attorneys jointly represented
Farmers Insurance Exchange v. Law Offices of Conrado Joe Sayas, Jr. (9th Cir. 2001) 250 F.3d 1234
 between franchisee law firms
 LA 423 (1983)
 between law firm and non-employee, "contract" attorney
 CAL 1994-138, LA 473 (1993)
 between subleasing attorneys and landlord-attorney
 LA 486 (1995)
 bonus to an "of counsel" attorney
 LA 470 (1992)
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 -duty of successor attorney to pay matures upon occurrence of contingency
Mason v. Levy and Van Bourg (1978) 77 Cal.App.3d 60 [143 Cal.Rptr. 389]
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Chambers v. Kay (2002) 29 Cal.4th 142 [126 Cal.Rptr.2d 536]
Margolin v. Shemaria (2000) 85 Cal.App.4th 891 [102 Cal.Rptr.2d 502]
Scolinos v. Kolts (1995) 37 Cal.App.4th 635 [44 Cal.Rptr.2d 31]
Kallen v. Delug (1984) 157 Cal.App.3d 940, 951
 court appearances
 SD 1974-2
 enforceable despite difference between agreement and actual division of labor
Breckler v. Thaler (1978) 87 Cal.App.3d 189 [151 Cal.Rptr. 50]
 failure to comply with Rule 2-200 violates policy considerations and an oral agreement is void
Margolin v. Shemaria (2000) 85 Cal.App.4th 891 [102 Cal.Rptr.2d 502]
 foreign
 LA 35 (1927)
 former partner associated on a particular case
Cazares v. Saenz (1989) 208 Cal.App.3d 279 [256 Cal.Rptr. 209]
 if illegal, is void
Scolinos v. Kolts (1995) 37 Cal.App.4th 635 [44 Cal.Rptr.2d 31]
Kallen v. Delug (1984) 157 Cal.App.3d 940, 951 [203 Cal.Rptr. 879]
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 LA 503 (2000)
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 partner
 -former
 LA(l) 1979-1
 -interstate partnership
 LA 385 (1980), LA 325 (1972)
 partner leaves firm
 CAL 1985-86
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partnership dissolution
 CAL 1985-86
 -allocation of income from unfinished business
Jewel v. Boxer (1984) 156 Cal.App.3d 171 [203 Cal.Rptr. 13]
 -post-dissolution profits from unfinished partnership business
*Dickson, Carlson & Campillo v. Pole (2000) 83 Cal.App.4th 436 [99 Cal.Rptr.2d 678]
 -right to share in proceeds from future business of new partnership
Fraser v. Bogucki (1988) 203 Cal.App.3d 604 [250 Cal.Rptr. 41]
 referral of legal business
 LA 385 (1980), LA 232 (1956), LA(l) 1965-12, LA 470 SD 1984-6
 -foreign lawyer
 LA 35 (1927)
 -suspended lawyer
 LA(l) 1937-1
 shareholder leaves firm
 has no ownership or lien interest upon fees owed to firm by client
City of Morgan Hill v. Brown (1999) 71 Cal.App.4th 1114 [84 Cal.Rptr.2d 361]
 where an outside lawyer functions on a particular matter essentially on the same basis as an employee, the outside lawyer is an associate for purposes of rule 2-200
Sims v. Charness (2001) 86 Cal.App.4th 884 [103 Cal.Rptr.2d 619]
 with dead lawyer's widowed spouse and estate
 Rule 3-102(a)(1), Rules of Professional Conduct (operative until May 26, 1989)
 Rule 1-320(A)(1), Rules of Professional Conduct (operative effective May 27, 1989)
Estate of Cartwright v. Commissioner of Internal Revenue (9th Cir. 1999) 183 F.3d 1034
Little v. Caldwell (1894) 101 Cal. 553, 561 [114 P. 361]
Heywood v. Sooy (1941) 45 Cal.App.2d 423, 426 [36 P.2d 107]
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 with foreign attorney
 LA 426 (1984)
 with former employer for work done after termination
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 with lawyer who is not partner, associate, or shareholder of the law firm
 CAL 1994-138, LA 473 (1993), LA 470 (1992)
 with lay entity
 -insurance company
Gafcon, Inc. v. Ponsor & Associates (2002) 98 Cal.App.4th 1388 [120 Cal.Rptr.2d 392]
 -lawyer referral service
 SD 1978-5
 -non-profit organization
 SF 1973-27
 -to attorney for percentage of contingency fee
 SF 1981-1
 with out-of-state lawyer
 LA 385 (1980), LA 325 (1972), LA 166 (1947), LA 99 (1936), LA(l) 1969-3
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 to lay employee
 LA 457
 Definition of term "associate" for purposes of Rule 2-200
Chambers v. Kay (2002) 29 Cal.4th 142 [126 Cal.Rptr.2d 536]
Sims v. Charness (2001) 86 Cal.App.4th 884 [103 Cal.Rptr.2d 619]
 Definition of term "partner" and "partnership" for purposes of Rule 2-200
Chambers v. Kay (2002) 29 Cal.4th 142 [126 Cal.Rptr.2d 536]

DIVISION OF FEES

Disclosure to clients

Margolin v. Shemaria (2000) 85 Cal.App.4th 891 [102 Cal.Rptr.2d 502]

Cazares v. Saenz (1989) 208 Cal.App.3d 279 [256 Cal.Rptr. 209]

Hawkins v. State Bar (1979) 23 Cal.3d 622, 628-629 [155 Cal.Rptr. 234, 591 P.2d 524]

CAL 1994-138; SD 1987-2

where an outside lawyer functions on a particular matter essentially on the same basis as an employee, the outside lawyer is an associate for purposes of rule 2-200

Sims v. Charness (2001) 86 Cal.App.4th 884 [103 Cal.Rptr.2d 619]

Partnership dissolution

CAL 1985-86

division of post-dissolution profits from unfinished partnership business

*Dickson, Carlson & Campillo v. Pole (2000) 83 Cal.App.4th 436 [99 Cal.Rptr.2d 678]

Quantum meruit

discharged attorney attempts to enforce contingent fee contract made with substituted counsel

Kallen v. Delug (1984) 157 Cal.App.3d 940 [203 Cal.Rptr. 879]

discharged attorney entitled to reasonable value of services

Ramirez v. Sturdevant (1994) 21 Cal.App.4th 904 [26 Cal.Rptr.2d 554]

Fracasse v. Brent (1972) 6 Cal.3d 784, 792 [100 Cal.Rptr. 385, 494 P.2d 9]

division of fees when amount allowed is insufficient for quantum meruit claims of past and existing counsel

Spires v. American Bus Lines (1984) 158 Cal.App.3d 206, 216-217 [204 Cal.Rptr. 531]

partnership entitled to

-for unfinished cases taken by departing partner

Cazares v. Saenz (1989) 208 Cal.App.3d 279 [256 Cal.Rptr. 209]

Champion v. Superior Court (1988) 201 Cal.App.3d 777

succeeding attorney's duty to advise client concerning prior attorney's quantum meruit claim

SF 1989-1

succeeding attorney's duty to honor withdrawing attorney's lien

Pearlmutter v. Alexander (1979) 97 Cal.App.3d Supp. 16, 18-20 [158 Cal.Rptr. 762]

under contingent fee contract, discharged attorney limited to quantum meruit recovery

Spires v. American Bus Lines (1984) 158 Cal.App.3d 211, 215-216 [204 Cal.Rptr. 531]

under occurrence of contingency, discharged attorney entitled to quantum meruit recovery for reasonable value of services

Ramirez v. Sturdevant (1994) 21 Cal.App.4th 904 [26 Cal.Rptr.2d 554]

Hensel v. Cohen (1984) 155 Cal.App.3d 563, 567 [202 Cal.Rptr. 85]

voluntary withdrawal without cause forfeits recovery

Cal Pak Delivery, Inc. v. United Parcel Service (1997) 52 Cal.App.4th 1 [60 Cal.Rptr.2d 207]

Ramirez v. Sturdevant (1994) 21 Cal.App.4th 904 [26 Cal.Rptr.2d 554]

Estate of Falco (1986) 188 Cal.App.3d 1004 [233 Cal.Rptr. 807]

Rationale underlying fee splitting prohibition

Ojeda v. Sharp Cabrillo Hospital (1992) 8 Cal.App.4th 1

Referral fee

Sims v. Charness (2001) 86 Cal.App.4th 884 [103 Cal.Rptr.2d 619]

Margolin v. Shemaria (2000) 85 Cal.App.4th 891 [102 Cal.Rptr.2d 502]

Compagna v. City of Sanger (1996) 42 Cal.App.4th 533 [49 Cal.Rptr.2d 676]

Scolinos v. Kolts (1995) 37 Cal.App.4th 635 [44 Cal.Rptr.2d 31]

Moran v. Harris (1982) 131 Cal.App.3d 913 [182 Cal.Rptr. 593]

CAL 1994-138, LA 503 (2000), LA 486, LA 467, SD 1984-6 acceptance by attorney of "take it or leave it" referral fee constitutes accord and satisfaction

Thompson v. Williams (1989) 211 Cal.App.3d 566 [259 Cal.Rptr. 518]

acceptance of where firm represents carrier represents a conflict of interest

SD 1987-2

gift or gratuity

LA 503 (2000)

paid to attorney for executor from broker listing estate property

SD 1989-2

paid to attorney from doctor for referral of clients for medical services

LA 443 (1988)

requires written disclosure to client and client's written consent

Margolin v. Shemaria (2000) 85 Cal.App.4th 891 [102 Cal.Rptr.2d 502]

where an outside lawyer functions on a particular matter essentially on the same basis as an employee, the outside lawyer is an associate for purposes of rule 2-200, and no case referral is involved

Sims v. Charness (2001) 86 Cal.App.4th 884 [103 Cal.Rptr.2d 619]

Void under Business and Professions Code section 16600

Muggill v. Reuben H. Donnelley Corp. (1965) 62 Cal.2d 239

Frame v. Merrill, Lynch, Pierce, Fenner & Smith, Inc. (1971) 20 Cal.App.3d 668

With franchisor

LA 423 (1983)

With lay entity

barter organization

CAL 1981-60, CAL 1977-44

bona fide legal services program or activity

Rule 2-102(A), Rules of Professional Conduct (operative until May 26, 1989)

Rule 1-600(A), Rules of Professional Conduct (operative as of May 27, 1989)

business manager of client

LA 431 (1984)

collection agency

LA 36 (1927)

consulting firm

LA 194 (1952)

consumer organization which arranged for employment

SF 1973-27

dead lawyer's estate

Estate of Cartwright v. Commissioner of Internal Revenue (9th Cir. 1999) 183 F.3d 1034

LA 361 (1976)

SD 1969-4, SD 1968-5

doctor

LA 443 (1988)

employment agency

CAL 1992-126, LA 359 (1976)

entity that helps persons get government loans

LA(l) 1976-5

financial management company

LA 372 (1978)

franchise group

LA 423 (1983)

group legal services organization

Rule 2-102(A), Rules of Professional Conduct (operative until May 26, 1989)

Rule 1-600(A), Rules of Professional Conduct (operative as of May 27, 1989)

independent contractor

In the Matter of Bragg (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 615

DIVISION OF FEES

- insurance company
 - Gafcon, Inc. v. Ponsor & Associates (2002) 98 Cal.App.4th 1388 [120 Cal.Rptr.2d 392]
 - CAL 1987-91
- investment/portfolio manager
 - CAL 1999-154
- lawyer
 - who is not a partner, associate or shareholder
 - CAL 1994-138, LA 473 (1993)
- lawyer referral service
 - Rule 2-102(B), Rules of Professional Conduct (operative until May 26, 1989)
 - Rule 1-600(B), Rules of Professional Conduct (operative as of May 27, 1989)
 - Sections 8.1-8.2, State Bar Minimum Standards for a Lawyer Referral Service
- lay entity's for referral of business
 - LA 96 (1936), LA(I) 1965-7
- lender to attorney of percentage of settlement
 - SF 1981-1
- living trust marketers
 - CAL 1997-148
- management company
 - LA 488 (1996)
- medical-legal consulting service
 - Ojeda v. Sharp Cabrillo Hospital (1992) 8 Cal.App.4th 1
- medical liaison
 - CAL 1995-143
- membership organization
 - LA 401 (1982)
- non-profit referring organization
 - SF 1976-2, 1973-27
- prepaid legal services organization
 - Rule 2-102(A), Rules of Professional Conduct (operative until May 26, 1989)
 - Rule 1-600(A), Rules of Professional Conduct (operative as of May 27, 1989)
- property management firm
 - LA 461 (1990)
- publishing company employees
 - LA 446 (1987)
- voluntary legal services organization
 - Rule 2-102(A), Rules of Professional Conduct (operative until May 26, 1989)
 - Rule 1-600(A), Rules of Professional Conduct (operative as of May 27, 1989)
- With non-lawyers
 - In re Carlos (C.D. Cal. 1998) 227 B.R. 535 [3 Cal.Bankr.Ct.Rep. 80]
 - Kitsis v. State Bar (1979) 23 Cal.3d 857 [153 Cal.Rptr. 836, 592 P.2d 323]
 - In re Arnoff (1978) 22 Cal.3d 740, 745 [150 Cal.Rptr. 479, 586 P.2d 960]
 - Sawyer v. State Bar (1934) 220 Cal. 702 [32 P.2d 369]
 - In re Kreitenberg (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 469
 - In the Matter of Phillips (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 315
 - In the Matter of Steele (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 708
 - In the Matter of Scapa and Brown (Review Dept. 1993) 2 Cal. State Bar Ct. Rptr. 635
 - In the Matter of Jones (Review Dept. 1993) 2 Cal. State Bar Ct. Rptr. 411
 - CAL 1992-126, LA(I) 1972-19
- assistant
 - Gassman v. State Bar (1976) 18 Cal.3d 125, 130 [132 Cal.Rptr. 675]
- attorney, not licensed at time services performed
 - may not be entitled to legal fees
 - Hardy v. San Fernando Valley Chamber of Commerce (1950) 99 Cal.App.2d 572, 576 [222 P.2d 314]
- bonuses to lay employee
 - LA 457
- business associate
 - Alpers v. Hunt (1890) 86 Cal. 78, 87 [24 P. 846]
- client
 - LA 461 (1990)
 - difference between original contingency fee and larger court award of fees
 - LA 447 (1987)
- client assistant
 - LA 437 (1985)
- dead lawyer's widowed spouse or estate
 - Rule 1-320(A)(1), Rules of Professional Conduct (operative effective May 27, 1989)
 - Estate of Cartwright v. Commissioner of Internal Revenue (9th Cir. 1999) 183 F.3d 1034
 - Little v. Caldwell (1894) 101 Cal. 553, 561 [36 P. 107]
 - Heywood v. Sooy (1941) 45 Cal.App.2d 423, 426 [114 P.2d 361]
 - CAL 1975-34, LA 361 (1976), LA 162 (1947), LA(I) 1974-15, SD 1968-5
- debt collection matter solicited in person by non-lawyer
 - LA 96 (1936)
- disbarred attorney
 - Crawford v. State Bar (1960) 54 Cal.2d 659, 665 [7 Cal.Rptr. 746]
- doctor
 - LA 443
- employee
 - LA 222 (1954), LA 190 (1952)
- employment agency
 - CAL 1992-126
- expert witnesses provided by consulting service
 - CAL 1984-79
- fee rebate to client
 - LA 447 (1987)
- heir hunter
 - Utz v. State Bar (1942) 21 Cal.2d 100, 107
- independent contractor
 - In the Matter of Bragg (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 615
- insurance adjuster
 - Cain v. Burns (1955) 131 Cal.App.2d 439, 441 [280 P.2d 888]
- investigator
 - employed by attorney
 - based upon contingent of recovery of unsatisfied judgment proper unless division of fees
 - LA 89 (1936)
- investment/portfolio manager
 - CAL 1999-154
- lawyer referral service
 - Hildebrand v. State Bar (1950) 36 Cal.2d 504, 512 [255 P.2d 508]
 - Emmons, Williams, Mires & Leech v. State Bar (1970) 6 Cal.App.3d 565, 570 [86 Cal.Rptr. 367]
- living trust marketer
 - CAL 1997-148
- management company
 - LA 488 (1996)
- medical-legal consulting services
 - Ojeda v. Sharp Cabrillo Hospital (1992) 8 Cal.App.4th 1
 - CAL 1984-79
- medical liaison
 - CAL 1995-143
- organized lender
 - SF 1981-1
- paralegal
 - In the Matter of Phillips (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 315
 - LA 391, LA 457
- private investigator
 - Lyons v. Swope (1957) 154 Cal.App.2d 598, 600 [317 P.2d 121]

DIVORCE

professionals, other
-participating in service exchange
CAL 1981-60, CAL 1977-44, LA(l) 1965-18
real estate agents/broker
Provisor v. Haas Realty, Inc. (1967) 256 Cal.App.2d 850,
856 [64 Cal.Rptr. 509]
LA 384 (1980), LA 18 (1922)
receiver
LA 44 (1927)
service exchange
CAL 1981-60, CAL 1977-44, LA(l) 1965-18
tax consultant
Crawford v. State Bar (1960) 54 Cal.2d 659, 665 [7
Cal.Rptr. 746]
tax specialist
employed by attorney
-to assist clients
LA 86 (1935)

DIVORCE [See Alimony. Collusion. Confidences of the client.
Conflict of interest, divorce, multiple representation. Fees.]

Award of attorneys fees
tied to division of community property
In re Marriage of McNeill (1984) 160 Cal.App.3d 548, 559-
560 [206 Cal.Rptr. 641]
when other spouse is able to pay
In re Marriage of Kerry (1984) 158 Cal.App.3d 456, 464
Communication of confidences
LA 417 (1983)
Completion and filing of selected forms by divorce center
SD 1983-12
Contingent fee for [See Contingent fee, divorce.]
CAL 1983-72, LA 188 (1952)
Counsel for one party holding trust fund executes against other's
share for back child support
LA(l) 1971-15
In propria persona
advise legal aid client how to obtain
SD 1972-6
Litigation privilege
absolute and protects attorney from derivative tort actions
based on statements made in the context of dissolution
proceedings
Silberg v. Anderson (1990) 50 Cal.3d 205
No fault
communicate with other party in
CAL 1996-145, LA 334 (1973)
Opposing party
fee paid by
LA 226 (1955)
Represent
client's spouse
LA 207 (1953), LA 192 (1952)
family corporation formerly
Woods v. Superior Court (1983) 149 Cal.App.3d 931 [197
Cal.Rptr. 185]
former client's spouse in
LA(l) 1971-8
one party
-after acting for marital union
LA(l) 1958-5, LA(l) 1947-1
-after consulting with both about divorce
LA(l) 1947-1, SD 1977-6
-after consulting with other about divorce
SD 1984-2, SD 1975-1
-settlement
SD 1984-2
-subsequently other in related action
LA 231 (1955), LA(l) 1968-8
other spouse previously
SD 1984-2
party in and receiver
LA 51 (1927)
successive wives of same husband
LA(l) 1963-6
Rights of spouse to fees
In re Marriage of Askren (1984) 157 Cal.App.3d 205, 212

DONATIONS [See Fee, donation of legal fees.]

Charitable
CAL 1982-65, SF 1974-4
Legal services
LA 434 (1984), SD 1975-14, SD 1974-19
contingent upon bequest to certain organization
LA 428 (1984)

Merchandise
SD 1973-2

DRAFT, MILITARY

Member of selective service appeal board represents
appellants before other boards
LA(l) 1969-8

DRUG ABUSE [See Alcohol abuse.]

DUAL PROFESSIONS [See Advertising. Conflict of interest.
Law office. Practice of law.]

DUTIES OF ATTORNEY [See Candor. Professional liability.
Withdrawal from employment.]

Business and Professions Code sections 6068, 6077, 6103
Rule 3-101(B), Rules of Professional Conduct (operative until
May 26, 1989)
Rule 1-300, Rules of Professional Conduct (operative as of
May 27, 1989)
CAL 1983-71

Abide by Rules of Professional Conduct, the American Bar
Association, and applicable court decisions
Standing Com. on Dis. of United States v. Ross (9th Cir.
1984) 735 F.2d 1168, 1170

Accept rulings of the court
People v. Davis (1984) 160 Cal.App.3d 970, 984

Action
encouraging commencement or continuation from corrupt
motive

Business and Professions Code section 6068(g)

legal or just

-duty to counsel or maintain only

Business and Professions Code section 6068(c)

In re Scott (Review Dept. 2002) 4 Cal. State Bar Ct.
Rptr. 446
LA 464 (1991)

Address maintained on official records

In the Matter of Lilley (Review Dept. 1991) 1 Cal. State Bar
Ct. Rptr. 476

In the Matter of Peterson (Review Dept. 1990) 1 Cal. State
Bar Ct. Rptr. 73

Adequacy and effectiveness of counsel

People v. Garcia (1983) 147 Cal.App.3d 409

In the Matter of Johnson (Review Dept. 2000) 4 Cal. State
Bar Ct. Rptr. 179

specially appearing attorney owes a duty of care to the
litigant

Streit v. Covington & Crowe (2000) 82 Cal.App.4th 441
[82 Cal.Rptr.2d 193]

Adequately research and know the law

Aloy v. Mash (1985) 38 Cal.3d 312 [212 Cal.Rptr. 162]

Davis v. Damrell (1981) 119 Cal.App.3d 883 [174 Cal.Rptr.
257]

Adequately research triable issues of fact

Aloy v. Mash (1983) 144 Cal.App.3d 768, 773 [192 Cal.Rptr.
818]

no duty to consult medical specialist unless such
consultations recommended by other doctors

Bolton v. Trope (1999) 75 Cal.App.4th 1021 [89
Cal.Rptr.2d 637]

Adequately supervise [See Competence, Failure to adequately
supervise. Employee.]

Adhere to Rules of Professional Conduct

People v. Manson (1980) 61 Cal.App.3d 102 [132 Cal.Rptr.
265]

Advance no fact prejudicial to honor or reputation of a party or
witness, unless required by the justice of the cause

Business and Professions Code section 6068(f)

applies to the advance of prejudicial facts, but perhaps
not prejudicial intimations

In the Matter of Torres (Review Dept. 2000) 4 Cal.
State Bar Ct. Rptr. 138

DUTIES OF ATTORNEY

Adverse parties

duty to client requires attorney to take steps to ensure agreement will be enforceable and the best assurance of enforceability is independent representation for both parties

In re Marriage of Bonds (2000) 24 Cal.4th 1 [99 Cal.Rptr.2d 252]

no duty of care

In re Complex Asbestos Litigation (1991) 232 Cal.App.3d 572 [283 Cal.Rptr. 732]

Silberg v. Anderson (1988) 203 Cal.App.3d 29, mod. 204 Cal.App.3d 150A, mod. (1990) 50 Cal.3d 205 [786 P.2d 365]

Schick v. Bach (1987) 193 Cal.App.3d 1321, 1330 [238 Cal.Rptr. 902]

Fox v. Pollack (1986) 181 Cal.App.3d 954 [226 Cal.Rptr. 532]

Morales v. Field, DeGoff, et al. (1979) 99 Cal.App.3d 307, 318 [160 Cal.Rptr. 239]

Norton v. Hines (1975) 49 Cal.App.3d 917, 921 [123 Cal.Rptr. 237]

-acceptance of ministerial function invokes a duty

Wasmann v. Seidenberg (1988) 202 Cal.App.3d 752 [248 Cal.Rptr. 744]

Adverse pecuniary interest

In the Matter of Silvertown (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 252

Advise adversary of campaign contribution to presiding judge in case

LA 387 (1981)

Advise client of disability of employer attorney

LA 348 (1975)

Advise client of partner and firm's malpractice

LA 383 (1979)

Advise client of prior attorney's malpractice

LA 390 (1981)

Advise client of reasonably apparent legal problems outside the scope of representation

LA 502 (1999)

Advise client of settlement and liability exposure

Garris v. Severson, Merson, Berke & Melchior (1988) 205 Cal.App.3d 301

Advise client of significant developments in case

Business and Professions Code section 6068(m)

Rule 3-500, Rules of Professional Conduct

Advise court of material fact

Crayton v. Superior Court (1985) 165 Cal.App.3d 443, 450-451 [211 Cal.Rptr. 605]

OR 95-001

Advise court of violation of court order by third party

LA 394 (1982)

Advise court to correct known misrepresentation

Datig v. Dove Books, Inc. (1999) 73 Cal.App.4th 964 [87 Cal.Rptr.2d 719]

Agent

no fiduciary duty

Beck v. Wecht (2002) 28 Cal.4th 289 [121 Cal.Rptr.2d 384]

Saunders v. Weissburg & Aronson (1999) 74 Cal.App.4th 869 [87 Cal.Rptr.2d 405], as mod. (August 9, 1999 and September 8, 1999)

Pollack v. Lytle (1981) 120 Cal.App.3d 931 [175 Cal.Rptr. 81]

Appeal

counsel must consult defendant about appeal when either a rational defendant would appeal or defendant shows interest in appealing

Roe v. Flores-Ortega (2000) 528 U.S. 470 [120 S.Ct. 1029]

indigent defendant constitutionally entitled to counsel's best argument for an appeal before court rules on withdrawal

United States v. Griffy (9th Cir. 1990) 895 F.2d 561

Artifice

never seek to mislead judge or judicial officer with

Business and Professions Code section 6068(d)

Rule 5-200(B), Rules of Professional Conduct

Associate's duties runs to client

LA 383 (1979)

Attempt to effectuate settlement where standards of professional care compel that most reasonable manner of disposing of action is settlement

Lysick v. Walcom (1968) 258 Cal.App.2d 136, 156 [65 Cal.Rptr. 406]

Avoid involving client in murky areas of law when alternatives are available

Horne v. Peckham (1979) 97 Cal.App.3d 404 [158 Cal.Rptr. 714]

Candor

dishonesty to court

In the Matter of Dahlz (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 269

In the Matter of Phillips (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 315

In the Matter of Chestnut (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 166

In the Matter of Johnson (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 179

distortions of record

Amstar Corp. v. Envirotech Corp. (C.A. Fed 1984) 730 F.2d 1476

no duty to disclose assistance to an in propria persona litigant unless a court rule requires disclosure

LA 502 (1999)

quotations containing deletions

Amstar Corp. v. Envirotech Corp. (C.A. Fed. 1984) 730 F.2d 1476

withdrawal from representation of a minor child

LA 504 (2000)

Care

specially appearing attorney owes a duty of care to the litigant

Streit v. Covington & Crowe (2000) 82 Cal.App.4th 441 [82 Cal.Rptr.2d 193]

Commence remedial action

Datig v. Dove Books, Inc. (1999) 73 Cal.App.4th 964 [87 Cal.Rptr.2d 719]

CAL 1983-74

Communicate with clients

Business and Professions Code section 6068(m)

Rule 3-500, Rules of Professional Conduct

Conroy v. State Bar (1991) 53 Cal.3d 495

Borré v. State Bar (1991) 52 Cal.3d 1047

Harford v. State Bar (1990) 52 Cal.3d 93

Kapelus v. State Bar (1987) 44 Cal.3d 179

Butler v. State Bar (1986) 42 Cal.3d 323 [721 P.2d 585]

Franklin v. State Bar (1986) 41 Cal.3d 700 [224 Cal.Rptr. 705]

In the Matter of Bailey (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 220

In the Matter of Dahlz (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 269

In the Matter of Freydl (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 349

In the Matter of Phillips (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 315

In the Matter of Lais (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 907

In the Matter of Greenwood (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 831

In the Matter of Hinden (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 657

In the Matter of Sullivan, II (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 608

In the Matter of Johnston (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 585

In the Matter of Nunez (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 196

In the Matter of Ward (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 47

In the Matter of Collins (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 1

DUTIES OF ATTORNEY

- In the Matter of Tindall (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 652
- In the Matter of Taylor (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 563
- In the Matter of Respondent C (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 439
- basis for calculating fees
- OR 99-001
- counsel must consult defendant about appeal when either a rational defendant would appeal or defendant shows interest in appealing
- Roe v. Flores-Ortega (2000) 528 U.S. 470 [120 S.Ct. 1029]
- discovery sanctions against the attorney and client may be a significant development which should be communicated to the client
- CAL 1997-151
- failure to communicate due to assigned associates inability to speak Spanish
- In the Matter of Whitehead (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 354
- gross negligence in failing to communicate may be deemed abandonment
- In re Valinoti (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 498
- misleading client deliberately and depriving client of opportunity to preserve rights
- Community Dental Services v. Tani (2002) 282 F.3d 1164
- no duty, as an element of malpractice action, to disclose to client that law firm had hired law clerk of judge before whom law firm was appearing in pending matter
- First Interstate Bank of Arizona v. Murphy, Weir & Butler (9th Cir. 2000) 210 F.3d 983
- on any matter which requires client understanding, the attorney must take all reasonable steps to insure that the client comprehends the legal concepts involved and advice given
- LA 504 (2000)
- "reasonable status inquiry" for purpose of B & P § 6068(m)
- In the Matter of Lais (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 907
- Compelled to deal directly with opposing party
- Gregory v. Gregory (1949) 92 Cal.App.2d 343, 349 [206 P.2d 1122]
- CAL 1987-93, CAL 1984-83
- Competence
- Rule 6-101, Rules of Professional Conduct (operative until May 26, 1989)
- Rule 3-110, Rules of Professional Conduct (operative as of May 27, 1989)
- obligation to anticipate reasonably foreseeable risks
- Lombardo v. Huysentruyt (2001) 91 Cal.App.4th 656 [110 Cal.Rptr.2d 691]
- Comply with State Bar reporting requirements
- Business and Professions Code section 6068(j)
- Condone violation of duties, violates public policy
- Academy of Calif. Opt. Inc. v. Superior Court (1975) 51 Cal.App.3d 999, 1006 [124 Cal.Rptr. 668]
- Confidences of client
- duty to follow a minor client's instruction not to disclose confidential information
- LA 504 (2000)
- duty to maintain inviolate
- Business and Professions Code section 6068(e)
- duty to preserve client confidence and trust in attorney
- People ex rel. Department of Corporations v. Speedee Oil Change Systems, Inc. (1999) 20 Cal.4th 1135 [86 Cal.Rptr.2d 816]
- City National Bank v. Adams (2002) 96 Cal.App.4th 315 [117 Cal.Rptr.2d 125]
- CAL 1981-58, CAL 1987-93, CAL 1987-92
- LA 506
- duty to protect client confidences and secrets
- after death of client
- LA 414 (1983)
- after termination of attorney-client relationship
- Woods v. Superior Court (1983) 149 Cal.App.3d 931 [197 Cal.Rptr. 185]
- LA 463 (1990), LA 452 (1988), LA 400 (1982), LA 386 (1980)
- fundamental ethical obligation not changed by court appointment to represent minor in dependency proceeding
- LA 504 (2000)
- Conform to professional standards of attorney in whatever capacity
- Marquette v. State Bar (1988) 44 Cal.3d 253 [242 Cal.Rptr. 886, 746 P.2d 1289]
- Crawford v. State Bar (1960) 54 Cal.2d 659, 668 [7 Cal.Rptr. 746, 355 P.2d 490]
- Libarian v. State Bar (1944) 25 Cal.2d 314 [153 P.2d 739]
- Raley v. Superior Court (1983) 149 Cal.App.3d 1042 [197 Cal.Rptr. 232]
- In re McCarthy (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 364
- In the Matter of Wyshak (Review Dept. 1999) 4 Cal. State Bar Ct. Rptr. 70
- conflicts of interest may arise where an attorney assumes a role other than as an attorney adverse to an existing client
- American Airlines v. Sheppard Mullin, Richter & Hampton (2002) 96 Cal.App.4th 1017 [117 Cal.Rptr.2d 685]
- rendering legal and non-legal services to a single client
- Kelly v. State Bar (1991) 53 Cal.3d 509
- Layton v. State Bar (1990) 50 Cal.3d 889
- In the Matter of Priamos (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 824
- CAL 1999-154
- Constitution, support of United States and California
- Business and Professions Code section 6068(a)
- no discipline for a negligent mistake made in good faith
- In the Matter of Respondent P (Review Dept. 1993) 2 Cal. State Bar Ct. Rptr. 622, 631
- Control communications of employees under attorney's letterhead and signature
- Crane v. State Bar (1981) 30 Cal.3d 117, 122 [177 Cal.Rptr. 670, 635 P.2d 163]
- Cooperate in disciplinary proceeding
- Business and Professions Code section 6068(i)
- Corrupt motive of passion or interest
- not to encourage action or proceeding from
- Business and Professions Code section 6068(g)
- Rule 3-200(A), Rules of Professional Conduct
- Costs
- no duty to advance for pro bono client
- LA 379 (1979)
- Counsel or maintain such actions, proceedings, or defenses only as appear legal or just
- Business and Professions Code section 6068(c)
- Sorensen v. State Bar (1991) 52 Cal.3d 1036
- In re Scott (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 446
- In the Matter of Lais (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 112
- Courts of justice
- maintain respect for
- Business and Professions Code section 6068(b)
- respectfully yield to rulings of court, whether right or wrong
- Dominguez v. Pantalone (1989) 212 Cal.App.3d 201 [260 Cal.Rptr. 431]
- Hawk v. Superior Court (1974) 42 Cal.App.3d 108, 126 [247 Cal.Rptr. 599]
- Deal honestly and fairly with adverse party and counsel
- Wasmann v. Seidenberg (1988) 202 Cal.App.3d 752 [248 Cal.Rptr. 744]
- In the Matter of Dahlz (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 269
- In the Matter of Phillips (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 315

DUTIES OF ATTORNEY

Defend client

American Home Assurance Co. v. Miller (9th Cir. 1983) 717 F.2d 1310

Defense counsel

People v. Fatone (1985) 165 Cal.App.3d 164 [211 Cal.Rptr. 228]

In re Spears (1984) 157 Cal.App.3d 1203, 1210 [204 Cal.Rptr. 333]

People v. Saldana (1984) 157 Cal.App.3d 443, 459 [204 Cal.Rptr. 465]

Defenseless, cause of

duty not to reject for personal considerations

Business and Professions Code section 6068(h)

report child abuse

Penal Code section 11165

Dependency proceeding

representation of a minor client

LA 504 (2000)

Depositions, representing client at

instructions not to answer sanctionable

Stewart v. Colonial Western Agency, Inc. (2001) 87 Cal.App.4th 1006 [105 Cal.Rptr.2d 115]

reconciling potentially divergent duties

LA 497 (1999)

Disclose

CAL 1969-19

SD 1983-8

altered evidence to opponent

SD 1983-3

death of client to opposing party

LA 300 (1967)

identity of informant to defendant

Twiggs v. Superior Court (1983) 34 Cal.3d 360, 365-366 [194 Cal.Rptr. 152, 667 P.2d 1165]

legal authority in the controlling jurisdiction which is adverse to client

Southern Pacific Transportation v. P.U.C. of the State of California (9th Cir. 1983) 716 F.2d 1285, 1291

Shaeffer v. State Bar (1945) 26 Cal.2d 739, 747 [160 P.2d 825]

violation of court order by third party

LA 394 (1982)

District attorney

In re Martin (1983) 150 Cal.App.3d 148, 169 [197 Cal.Rptr. 655]

Duty to preserve client confidence/trust in attorney

People ex rel. Dept. of Corporations v. Speedee Oil Change Systems (1999) 20 Cal.4th 1135 [86 Cal.Rptr.2d 816]

City National Bank v. Adams (2002) 96 Cal.App.4th 315 [117 Cal.Rptr.2d 125]

In the Matter of Johnson (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 179

CAL 1987-93, CAL 1987-92

Duty to report impropriety of another attorney

Business and Professions Code section 6100 et seq.

SD 1992-2, LA 440 (1986)

SF 1977-1

Employ means consistent with truth

Business and Professions Code section 6068(d)

Rule 5-200, Rules of Professional Conduct

Datig v. Dove Books, Inc. (1999) 73 Cal.App.4th 964 [87 Cal.Rptr.2d 719]

In the Matter of Lais (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 112

Employee duties to employer

Labor Code section 2650

Estate executor and beneficiary

Estate of Efron (1981) 117 Cal.App.3d 915 [173 Cal.Rptr. 93]

Exercise independent professional judgment in best interest of clients

Beck v. Wecht (2002) 28 Cal.4th 289 [121 Cal.Rptr.2d 384]

Saunders v. Weissburg & Aronson (1999) 74 Cal.App.4th 869 [87 Cal.Rptr.2d 405], as modified (August 9, 1999 and September 8, 1999)

LA 383 (1979)

Failure of counsel to investigate and file a federal tort claim imputed to client

Greene v. State of California (1990) 222 Cal.App.3d 117 [272 Cal.Rptr. 52]

Failure to perform duties

Rossman v. State Bar (1985) 39 Cal.3d 539 [216 Cal.Rptr. 919]

Newton v. State Bar (1983) 33 Cal.3d 480 [189 Cal.Rptr. 372, 658 P.2d 735]

In the Matter of Dahlz (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 269

In the Matter of Freydl (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 349

In the Matter of Phillips (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 315

attorney neither pursued client's action nor took active steps to withdraw

In the Matter of Doran (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 871

specially appearing attorney owes a duty of care to the litigant

Streit v. Covington & Crowe (2000) 82 Cal.App.4th 441 [82 Cal.Rptr.2d 193]

Fairness to opposing counsel

CAL 1984-78

False statement of fact or law

never seek to mislead judge or judicial officer with

Business and Professions Code section 6068(d)

Rule 5-200, Rules of Professional Conduct

Datig v. Dove Books, Inc. (1999) 73 Cal.App.4th 964 [87 Cal.Rptr.2d 719]

Fidelity to client

B.L.M. v. Sabo & Deitsch (1997) 55 Cal.App.4th 823 [64 Cal.Rptr.2d 335]

80 Ops. Cal. Atty. Gen. 36 (2/7/97; No. 96-301)

Anderson v. Eaton (1930) 211 Cal. 113

CAL 1987-93, CAL 1981-83

Fidelity to non-client

*GATX/Airlog Company v. Evergreen International Airlines, Inc. (1998) 8 F.Supp.2d 1182

Morrison Knudsen Corp. v. Hancock, Rothert & Bunshoft, LLP (1999) 69 Cal.App.4th 223 [81 Cal.Rptr.2d 425]

Fiduciary

Stanley v. Richmond (1995) 35 Cal.App.4th 1070 [41 Cal.Rptr.2d 768]

Read v. State Bar (1991) 53 Cal.3d 394, Modified at 53 Cal.3d 1009A

Hartford v. State Bar (1990) 50 Cal.3d 1139

Shalant v. State Bar (1983) 33 Cal.3d 485 [189 Cal.Rptr. 364]

In re Gillis (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 387

In the Matter of Respondent H (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 234

In the Matter of Nunez (Review Dept. 1992) 2 Cal. State Bar Ct. 196

Ball v. Posey (1986) 176 Cal.App.3d 1209, 1214 [222 Cal.Rptr. 746]

Krusesky v. Baugh (1982) 138 Cal.App.3d 562, 567 [188 Cal.Rptr. 57]

adverse party

Sternlieb v. State Bar (1990) 52 Cal.3d 317

Guzzetta v. State Bar (1987) 43 Cal.3d 962 [239 Cal.Rptr. 675]

Crooks v. State Bar (1970) 3 Cal.3d 346

Johnstone v. State Bar (1966) 64 Cal.2d 153 [49 Cal.Rptr. 97]

In the Matter of Respondent F (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 17

adverse party or non-client

*GATX/Airlog Company v. Evergreen International Airlines, Inc. (1998) 8 F.Supp.2d 1182

In the Matter of Respondent F (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 17

DUTIES OF ATTORNEY

- disbursement of assets in dissolution without consent of parties
 - Wasmann v. Seidenberg (1988) 202 Cal.App.3d 752 [248 Cal.Rptr. 744]
 - In the Matter of Hertz (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 456
- breach of duty to a former client
 - American Airlines v. Sheppard Mullin, Richter & Hampton (2002) 96 Cal.App.4th 1017 [117 Cal.Rptr.2d 685]
 - David Welch Company v. Erskine and Tully (1988) 203 Cal.App.3d 884 [250 Cal.Rptr. 339]
- civil judgment for fraud and breach of fiduciary duty establishes moral turpitude
 - In the Matter of Kittrell (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 195
- duty owed by partners of a dissolved partnership to complete the partnership's unfinished business and to act in the highest good faith
 - *Dickson, Carlson & Campillo v. Pole (2000) 83 Cal.App.4th 436 [99 Cal.Rptr.2d 678]
- legal obligation to give notice of impending default in plaintiff's suit
 - Bellm v. Bellia (1984) 150 Cal.App.3d 1036 [198 Cal.Rptr. 389]
- no duty to co-counsel
 - Beck v. Wecht (2002) 28 Cal.4th 289 [121 Cal.Rptr.2d 384]
 - Saunders v. Weissburg & Aronson (1999) 74 Cal.App.4th 869 [87 Cal.Rptr.2d 405], as modified (August 9, 1999 and September 8, 1999)
- relationship ends when insured sues its insurer
 - San Gabriel Basin Water Quality Authority v. Aerojet-General Corp. (C.D. Cal. 2000) 105 F.Supp.2d 1095
- rule requiring that trust funds disputed by client be maintained in the client trust account until the dispute is resolved also applies to disputes concerning funds held for the benefit of non-clients to whom the attorney owes fiduciary duties
 - In the Matter of Respondent F (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 17
- standard for the relationship
 - *GATX/Airlog Company v. Evergreen International Airlines, Inc. (1998) 8 F.Supp.2d 1182
 - Elan Transdermal, Ltd. v. Cygnus Therapeutic Systems (N.D. Cal. 1992) 809 F.Supp. 1383, 1384
- statute of limitations
 - Stoll v. Superior Court (1992) 9 Cal.App.4th 1362
- to non-client joint ventures
 - Galardi v. State Bar (1987) 43 Cal.3d 683 [238 Cal.Rptr. 774]
 - LA 412 (1983)
- to third-party non-client
 - Sodikoff v. State Bar (1975) 14 Cal.3d 422 [121 Cal.Rptr. 467, 535 P.2d 331]
 - In the Matter of Wyshak (Review Dept. 1999) 4 Cal. State Bar Ct. Rptr. 70
- Files [See Files.]
- Fraud
 - civil judgment for fraud and breach of fiduciary duty establishes moral turpitude
 - In the Matter of Kittrell (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 195
 - false representation that attorney had received escrow funds and was holding in trust
 - In the Matter of Wyshak (Review Dept. 1999) 4 Cal. State Bar Ct. Rptr. 70
- Honesty
 - deception and concealment amounting to moral turpitude
 - In the Matter of Kittrell (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 195
 - dishonesty to court
 - In the Matter of Dahlz (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 269
 - In the Matter of Phillips (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 315
 - In the Matter of Chestnut (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 166
- In the Matter of Johnson (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 179
- fundamental rule of ethics, common honesty
 - Gadda v. State Bar (1990) 50 Cal.3d 344 [787 P.2d 95]
 - Bowles v. State Bar (1989) 48 Cal.3d 100 [255 Cal.Rptr. 846, 768 P.2d 65]
 - Alkow v. State Bar (1952) 38 Cal.2d 257, 264 [239 P.2d 871]
 - In the Matter of Phillips (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 315
- Improve and enhance the rule of law
 - Capotosto v. Collins (1991) 235 Cal.App.3d 1439
- Indigent
 - duty to represent
 - Cunningham v. Superior Court (1986) 177 Cal.App.3d 336 [222 Cal.Rptr. 854]
 - SD 1968-4
 - private employment contract with
 - SD 1968-4
- Inform court [See Court.]
 - correct known misrepresentation
 - Datig v. Dove Books, Inc. (1999) 73 Cal.App.4th 964 [87 Cal.Rptr.2d 719]
 - non-party witness perjury
 - SD 1983-8
 - of client perjury
 - CAL 1983-74
- Insist that trustee receivers keep accurate records
 - Southwestern Media, Inc. v. Rau (9th Cir. 1983) 708 F.2d 419
- Instruct client with respect to communications with opposing party
 - SD 1983-2
- Insurer's attorney has duty to include insured's independent counsel in settlement negotiations and to fully exchange information
 - Novak v. Low, Ball & Lynch (1999) 77 Cal.App.4th 278 [91 Cal.Rptr.2d 453]
- Insured's attorney owes no duty of good faith and fair dealing to insurer
 - Cooper v. Equity General Insurance (1990) 219 Cal.App.3d 1252 [268 Cal.Rptr. 692]
- Insured's attorney owes no duty to insurer to turn over portions of third-party recoveries made on behalf of client
 - Farmers Insurance Exchange et al. v. Smith (1999) 71 Cal.App.4th 660 [83 Cal.Rptr.2d 911]
- Investigate potential securities fraud
 - Federal Deposit Insurance Corporation v. O'Melveny & Myers (9th Cir. 1992) 969 F.2d 744
- Investigate prior to filing lawsuit
 - Johnson v. Baldwin (9th Cir. 1997) 114 F.3d 835
 - Williams v. Coombs (1986) 179 Cal.App.3d 626 [224 Cal.Rptr. 865]
 - In the Matter of Bragg (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 615
- Investigate statements made by own client
 - United States v. Kellington (9th Cir. Or. 2000) 217 F.3d 1084
 - Paul Oil Company, Inc. v. Federated Mutual Insurance (1998) 154 F.3d 1049
 - Butler v. State Bar (1986) 42 Cal.3d 323, 329 [228 Cal.Rptr. 499]
 - In the Matter of Nunez (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 196
- Joint ventures
 - Galardi v. State Bar (1987) 43 Cal.3d 683 [238 Cal.Rptr. 774]
- Judge
 - never to mislead with artifice or false statement
 - Business and Professions Code section 6068(d)
 - Rule 5-200(B), Rules of Professional Conduct

DUTIES OF ATTORNEY

Judicial office

- maintain respect due
 - Business and Professions Code section 6068(b)
- never to mislead with artifice or false statement
 - Business and Professions Code section 6068(d)

Keep accurate records

- Fitzsimmons v. State Bar (1983) 34 Cal.3d 327 [193 Cal.Rptr. 896, 667 P.2d 700]

Laws, support of United States and California

- Business and Professions Code section 6068(a)
 - no discipline for a negligent mistake made in good faith
 - In the Matter of Respondent P (Review Dept. 1993) 2 Cal. State Bar Ct. Rptr. 622, 631

Loyalty

- *GATX/Airlog Company v. Evergreen International Airlines, Inc. (1998) 8 F.Supp.2d 1182
 - People ex rel. Department of Corporations v. Speedee Oil Change Systems, Inc. (1999) 20 Cal.4th 1135 [86 Cal.Rptr.2d 816]
 - American Airlines v. Sheppard Mullin, Richter & Hampton (2002) 96 Cal.App.4th 1017 [117 Cal.Rptr.2d 685]
 - City National Bank v. Adams (2002) 96 Cal.App.4th 315 [117 Cal.Rptr.2d 125]
 - State Farm Mutual Automobile Insurance Company v. Federal Insurance Company (1999) 72 Cal.App.4th 1422 [86 Cal.Rptr.2d 20]
 - Forrest v. Baeza (1997) 58 Cal.App.4th 65 [67 Cal.Rptr.2d 857]
 - Metro-Goldwyn-Mayer v. Tracinda Corp. (1995) 36 Cal.App.4th 1832, 1839
 - Flatt v. Superior Court (1994) 9 Cal.4th 275, 284 [36 Cal.Rptr.2d 537]
 - Truck Insurance Exchange v. Fireman's Fund Insurance Co. (1992) 6 Cal.App.4th 1050, 1055 [8 Cal.Rptr.2d 228]
 - Jeffrey v. Pounds (1977) 67 Cal.App.3d 611
 - bonus program for public agency attorneys tied to savings by agency
 - SD 1997-2
 - may require attorney's limited response to judge's questions absent an affirmative duty to inform the court
 - OR 95-001
 - no fiduciary duty owed to co-counsel where no collateral duties may interfere with duty of undivided loyalty and total devotion to client's best interest
 - Beck v. Wecht (2002) 28 Cal.4th 289 [121 Cal.Rptr.2d 384]
 - owed to one client does not consume that owed the other client
 - Betts v. Allstate Ins. Co. (1984) 154 Cal.App.3d 688, 716 [201 Cal.Rptr. 528]
 - personal duty not delegable
 - Curtis v. Kellogg & Andelson (1999) 73 Cal.App.4th 492 [86 Cal.Rptr.2d 536]
 - Baum v. Duckor, Spradling & Metzger (1999) 72 Cal.App.4th 54 [84 Cal.Rptr.2d 703]
 - Kracht v. Perrin, Gartlan & Doyle (1990) 219 Cal.App.3d 1019 [268 Cal.Rptr.2d 637]
 - self-interest of attorney does not interfere with duty to client where attorney seeks indemnification from co-counsel in malpractice action
 - Musser v. Provencher (2002) 28 Cal.4th 274 [121 Cal.Rptr.2d 373]
 - LA 506
- ### Maintain
- contact with informants
 - Twiggs v. Superior Court (1983) 34 Cal.3d 360, 366-367 [194 Cal.Rptr. 152, 667 P.2d 1165]
 - involute confidences and secrets of client
 - Business and Professions Code section 6068(e)
 - outlasts employment
 - LA 389 (1981)
- ### Make available client files on withdrawal
- CAL 1994-134, SD 1997-1, SD 1984-3, SD 1977-3, SF 1996-1
- ### Mandatory bar membership
- Morrow, et al. v. State Bar (9th Cir. 1999) 188 F.3d 1174
- ### MCLE (Minimum Continuing Legal Education)

Warden v. State Bar (1999) 21 Cal.4th 628

Greenberg v. State Bar of California (2000) 78 Cal.App.4th 39 [92 Cal.Rptr.2d 493]

Misappropriation of funds

- In the Matter of Freydl (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 349
- In the Matter of Wyshak (Review Dept. 1999) 4 Cal. State Bar Ct. Rptr. 70

Misleading judge or judicial officer

- Jones v. Barnes (1983) 463 U.S. 745 [103 S.Ct. 3308, 77 L.Ed.2d 987]
- court responsible for ascertaining attorney's role in preparation and presentation of sham evidence
 - Paul Oil Company, Inc. v. Federated Mutual Insurance (1998) 154 F.3d 1049
- duty not to mislead by an artifice or false statement of fact or law
 - Business and Professions Code section 6068(d)
 - Rule 5-200(B), Rules of Professional Conduct
 - Datig v. Dove Books, Inc. (1999) 73 Cal.App.4th 964 [87 Cal.Rptr.2d 719]
 - Griffis v. Kresge (1984) 150 Cal.App.3d 491 [197 Cal.Rptr. 771]
 - In the Matter of Chestnut (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 166
 - OR 95-001
- duty to report possible violation of court order
 - LA 394 (1982)

No constitutional right to every defense

- Jones v. Barnes (1983) 463 U.S. 745 [103 S.Ct. 3308, 77 L.Ed.2d 987]
- counsel need not raise every non-frivolous claim
 - Jones v. Barnes (1983) 463 U.S. 745 [103 S.Ct. 3308, 77 L.Ed.2d 987]

No duty to consult medical specialist unless such consultations recommended by other doctors

- Bolton v. Trope (1999) 75 Cal.App.4th 1021 [89 Cal.Rptr.2d 637]

Not required to make futile objections

- People v. Harpool (1984) 155 Cal.App.3d 877, 886 [202 Cal.Rptr. 467]

Not to encourage actions brought from a corrupt motive of passion or interest

- Rule 3-200(A), Rules of Professional Conduct
- Sorensen v. State Bar (1991) 52 Cal.3d 1036

Obey court orders

- Business and Professions Code section 6103
- Barnum v. State Bar (1990) 52 Cal.3d 104
- disregard of order by a workers' compensation judge
 - In the Matter of Lantz (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 126
- law firm violated injunction by depositing client's check into client trust account
 - Commodity Futures Trading Commission v. Co. Petro Mktg. (9th Cir. 1983) 700 F.2d 1269, 1284
- lawyer failed to serve answer as ordered by court
 - Community Dental Services v. Tani (2002) 282 F.3d 1164
- monetary sanctions not warranted for premature departure from courthouse and returning late from lunch
 - Wehrli v. Pagliotti (9th Cir. 1991) 947 F.2d 1424
- no penalty of contempt for advising client-witness not to produce incriminating material based on 5th Amendment
 - Manness v. Myers (1974) 419 U.S. 449 [95 S.Ct. 584]

Obey oath

- Chefsky v. State Bar (1984) 36 Cal.3d 116, 120-131 [202 Cal.Rptr. 349]

Of discharged attorney

- to sign settlement draft/check to facilitate former client's receipt of settlement proceeds
 - In the Matter of Feldsott (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 754
 - In the Matter of Kaplan (Review Dept. 1993) 2 Cal. State Bar Ct. Rptr. 509

DUTIES OF ATTORNEY

- Of succeeding attorneys
 - honor preceding attorneys' liens
 - In the Matter of Respondent H (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 234
- Offensive personality, duty to abstain from
 - Business and Professions Code section 6068(f)
- Officer of court
 - Jackson v. State Bar (1979) 23 Cal.3d 509 [153 Cal.Rptr. 24, 591 P.2d 47]
 - People v. Chong (1999) 76 Cal.App.4th 232 [90 Cal.Rptr.2d 198]
 - Griffis v. Kresge (1984) 150 Cal.App.3d 491 [197 Cal.Rptr. 771]
- On withdrawal not affected by who terminates the relationship
 - Kallen v. Delug (1984) 157 Cal.App.3d 940, 950 [203 Cal.Rptr. 879]
- Opposing counsel
 - disclose death of client during settlement negotiation
 - LA 300 (1967)
 - dishonesty to
 - In the Matter of Dahlz (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 269
 - In the Matter of Phillips (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 315
- Opposing party
 - disbursement of funds to client and attorney when funds held for the benefit of client and the adverse party without knowledge or consent of the adverse party and opposing counsel
 - In the Matter of Hertz (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 456
 - litigation privilege
 - is absolute and protects attorney from tort actions based on misleading statements made to opposing side
 - dissolution proceedings
 - Silberg v. Anderson (1990) 50 Cal.3d 205
 - settlement negotiation
 - Home Insurance Co. v. Zurich Insurance Co. (2002) 96 Cal.App.4th 17 [116 Cal.Rptr.2d 583]
 - justifies dismissal of defamation action against law firm
 - Dove Audio Inc. v. Rosenfeld, Meyer and Susman (1996) 47 Cal.App.4th 777 [54 Cal.Rptr.2d 830]
 - protects attorney conduct which is communicative in nature
 - Schneider v. Cerlo (1992) 5 Cal.App.4th 528 [7 Cal.Rptr.2d 323]
 - no duty of care owed
 - In re Complex Asbestos Litigation (1991) 232 Cal.App.3d 572 [283 Cal.Rptr. 732]
 - Schick v. Bach (1987) 193 Cal.App.3d 1321, 1330
 - Morales v. Field, DeGoff, et al. (1979) 99 Cal.App.3d 307, 318 [160 Cal.Rptr. 239]
 - Norton v. Hines (1975) 49 Cal.App.3d 917, 921 [123 Cal.Rptr. 237]
 - to advise regarding opposing party's mistake of law affecting settlement
 - LA 380 (1979)
- Oppressed, cause of duty not to reject for personal considerations
 - Business and Professions Code section 6068(h)
- Outlast employment
 - LA 389 (1981)
 - duties to client extend beyond the closing of the client file
 - In the Matter of Respondent G (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 175
 - does not dissolve when attorney is discharged
 - Woods v. Superior Court (1983) 149 Cal.App.3d 931 [197 Cal.Rptr. 185]
- Owed to third parties [See Professional liability, duty owed to third parties.]
 - Haldane v. Freedman (1962) 204 Cal.App.2d 475 [22 Cal.Rptr. 445]
 - stock pledged by third party creates fiduciary duty under Business and Professions Code section 6068(a)
 - Hartford v. State Bar (1990) 50 Cal.3d 1139
- Partner's malpractice
 - associate's duty to disclose to client
 - LA 383 (1979)
- Partnership dissolution
 - CAL 1985-86
 - fiduciary duty owed by partners of a dissolved partnership to complete the partnership's unfinished business and to act in the highest good faith
 - *Dickson, Carlson & Campillo v. Pole (2000) 83 Cal.App.4th 436 [99 Cal.Rptr.2d 678]
- Party
 - honor of
 - advance no fact prejudicial to
 - Business and Professions Code section 6068(f)
 - reputation of
 - advance no fact prejudicial to
 - Business and Professions Code section 6068(f)
- Pay court reporter fees
 - CAL 1979-48
- Perform services for client
 - Butler v. State Bar (1986) 42 Cal.3d 323
 - McMorris v. State Bar (1983) 35 Cal.3d 78
 - In the Matter of Phillips (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 315
 - In the Matter of Johnson (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 179
- Personal considerations, not to reject cause of defenseless or oppressed for
 - Business and Professions Code section 6068(h)
 - LA 445 (1987)
- Power of attorney, on advice of attorney
 - Civil Code section 2421(3)(2)
- Preserve confidences and secrets
 - Business and Professions Code section 6068(e)
- Pro bono client
 - Bradshaw v. U.S. Dist. Court (9th Cir. 1984) 742 F.2d 515, 518-519
 - Segal v. State Bar (1988) 44 Cal.3d 1077 [245 Cal.Rptr. 404]
 - *Yarbrough v. Superior Court (1983) 150 Cal.App.3d 388, 397
- Proceeding
 - encouraging commencement or continuance from corrupt motive of passion or interest
 - Business and Professions Code section 6068(g)
 - legal or just
 - duty to counsel or maintain only
 - Business and Professions Code section 6068(c)
- Professionalism
 - LA 339 (1973), LA 272 (1962)
- Prosecutor
 - People v. Eubanks (1996) 14 Cal.4th 580 [59 Cal.Rptr.2d 200 927 P.2d 310] (mod. at 14 Cal.4th 1282D)
 - People v. Conner (1983) 34 Cal.3d 141 [193 Cal.Rptr. 148, 666 P.2d, 5]
 - People v. Manson (1976) 61 Cal.App.3d 102, 164
 - duty to seek justice, not merely to convict
 - People v. Brown (1989) 207 Cal.App.3d 741 [255 Cal.Rptr. 67]
- Protect a client in every possible way
 - Federal Deposit Insurance Corporation v. O'Melveny & Myers (9th Cir. 1992) 969 F.2d 744
- Public agency attorneys
 - participation in bonus program tied to savings by agency
 - SD 1997-2
- Public defender
 - acts of privately retained counsel and publicly appointed counsel should be measured by the same standards of care, except as otherwise provided by statute
 - Barner v. Leeds (2000) 24 Cal.4th 676 [102 Cal.Rptr.2d 97]
- Refer client to specialist
 - Horne v. Peckham (1979) 97 Cal.App.3d 404, 414 [158 Cal.Rptr. 714]

DUTIES OF ATTORNEY

Reject for personal considerations

cause of defenseless or oppressed

Business and Professions Code section 6068(h)

Cunningham v. Superior Court (1986) 177 Cal.App.3d 336

Waitz v. Zumwalt (1985) 167 Cal.App.3d 835 [213 Cal.Rptr. 529]

CAL 1981-64

Report

child abuse

Penal Code section 11165 et seq.

LA 504 (2000)

crime discovered

SF 1975-2

impropriety of another attorney

Business and Professions Code section 6100 et seq.

LA 440 (1986)

SD 1992-2, SF 1977-1

to the IRS

-cash receipts from any one transaction (or two related

transactions) of \$10,000 or more during one year

Internal Revenue Code section 6050(l)

to the State Bar

-address of attorney

Business and Professions Code section 6002.1

-civil judgment for fraud, misrepresentation and breach of fiduciary duty in a professional capacity

In re Peavey (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 483

-conviction of attorney

Business and Professions Code section 6068(o)(5)

-imposition of discipline

Business and Professions Code section 6068(o)(6)

-indictment of information charging a felony

Business and Professions Code section 6068(o)(4)

-judgment against attorney for moral turpitude

Business and Professions Code section 6068(o)(2)

In the Matter of Kittrell (Review Dept. 2000) 4 Cal.

State Bar Ct. Rptr. 195

-judicial sanctions

Business and Professions Code section 6068(o)(3)

Eskanos & Adler, P.C. v. Leetien (9th Cir. 2002)

309 F.3d 1210

Hill v. MacMillan/McGraw Hill Company (9th Cir.

1996) 102 F.3d 422

Sarraf v. Standard Insurance Co. (9th Cir. 1996)

102 F.3d 991

In the Matter of Respondent Y (Review Dept. 1998)

3 Cal. State Bar Ct. Rptr. 862

In the Matter of Blum (Review Dept. 1994) 3 State

Bar Ct. Rptr. 170

CAL 1997-151

--duty to report runs from the time sanctions ordered regardless of pendency of an appeal

In the Matter of Respondent Y (Review Dept. 1998)

3 Cal. State Bar Ct. Rptr. 862

-malpractice lawsuits

Business and Professions Code section 6068(o)(1)

Represent client zealously

People v. McKenzie (1983) 34 Cal.3d 616 [194 Cal.Rptr. 462, 668 P.2d 769]

People v. Pangelina (1984) 153 Cal.App.3d 1

attorneys generally must pursue all available legal theories although it is impossible to know in advance whether a potential theory will prevail

Greene v. Dillingham Construction, N.A., Inc. (2002) 101 Cal.App.4th 418 [124 Cal.Rptr.2d 250]

attorneys obliged to do their best for their clients whatever the fee arrangement and are duty bound to maximize results and expedite resolution; anything less would be unethical and dishonorable

In re County of Orange (C.D. Cal. 1999) 241 B.R. 212 [4 Cal. Bankr. Ct. Rep. 117]

Research law

In re Disciplinary Action Mooney (9th Cir. 1988) 841 F.2d 1003

Torbitt v. Fearn (1984) 161 Cal.App.3d 860, 864-865

Respect courts and judicial officers

Business and Professions Code section 6068(b)

Datig v. Dove Books, Inc. (1999) 73 Cal.App.4th 964 [87 Cal.Rptr.2d 719]

Return client files to client

In the Matter of Phillips (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 315

SD 1997-1, SD 1984-3, SD 1977-3, SF 1996-1, SF 1984-1

Return records mistakenly delivered to sender

SD 1987-3

Reveal

United States v. Kellington (9th Cir. Or. 2000) 217 F.3d 1084

client perjury in a civil non-jury trial

CAL 1983-74

the fruits of crime in his possession to the prosecutor

CAL 1984-76, LA 466

Secrets of client

duty to preserve

Business and Professions Code section 6068(e)

duty to supervise [See Employee.]

Serve indigent client without compensation

Mowrer v. Superior Court (1984) 156 Cal.App.3d 462, 470

Settlement

attempt to effectuate settlement where standards of professional care compel that most reasonable manner of disposing of action is settlement

Lysick v. Walcom (1968) 258 Cal.App.2d 136, 156

settlement check issued only to client, but delivered to attorney who has a lien

OR 99-002

Special obligation to obey the law

Standing Com. on Dis. of United States v. Ross (9th Cir. 1984) 735 F.2d 1168, 1171

Statutory duty to assist indigent

Arnelle v. City and County of San Francisco (1983) 141 Cal.App.3d 693 [190 Cal.Rptr. 490]

Statutory requirement for service on attorney

National Advertising Co. v. City of Rohnert Park (1984) 160 Cal.App.3d 614, 618-619

Supervise client trust account

Coppock v. State Bar (1988) 44 Cal.3d 665 [244 Cal.Rptr. 462]

LA 488 (1996)

responsibility to monitor client trust account is nondelegable, notwithstanding even reasonable reliance on partner, associate, or responsible employee

In re Blum (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 403

Supervise employees

Gadda v. State Bar (1990) 50 Cal.3d 344 [787 P.2d 95]

Bernstein v. State Bar (1990) 50 Cal.3d 221 [786 P.2d 352]

Palomo v. State Bar (1984) 36 Cal.3d 785

Crane v. State Bar (1981) 30 Cal.3d 117, 122

Black v. State Bar (1972) 7 Cal.3d 676, 692

Moore v. State Bar (1964) 62 Cal.2d 74, 81 [41 Cal.Rptr. 161, 396 P.2d 577]

In the Matter of Phillips (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 315

In the Matter of Steele (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 708

In the Matter of Hinden (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 657

In the Matter of Sullivan, II (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 608

In the Matter of Kaplan (Review Dept. 1993) 2 Cal. State Bar Ct. Rptr. 509

In the Matter of Collins (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 1

In the Matter of Whitehead (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 354

CAL 1997-150, CAL 1988-103, LA 488 (1996), OR 94-002

DUTIES OF ATTORNEY

- attorney employees
 - Bernstein v. State Bar (1990) 50 Cal.3d 221, 231
 - In the Matter of Hinden (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 657
- paralegal
 - In re Complex Asbestos Litigation (1991) 232 Cal.App.3d 572 [283 Cal.Rptr. 732]
 - In the Matter of Phillips (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 315
 - OR 94-002
- Support of United States and California Constitution and Laws Business and Professions Code section 6068(a)
 - no discipline for a negligent mistake made in good faith
 - In the Matter of Respondent P (Review Dept. 1993) 2 Cal. State Bar Ct. Rptr. 622, 631
 - Silberg v. Anderson (1990) 50 Cal.3d 205
- Take reasonable measures to determine law at time of action
 - no duty to foresee changes in law
 - Jones v. Stevenson (1983) 149 Cal.App.3d 560, 565
 - *Sharpe v. Superior Court (1983) 143 Cal.App.3d 469 [192 Cal.Rptr. 16]
- Third party
 - B.L.M. v. Sabo & Deitsch (1997) 55 Cal.App.4th 823 [64 Cal.Rptr.2d 335]
 - no duty to insurer to turn over portions of third-party recoveries made on behalf of client
 - Farmers Insurance Exchange et al. v. Smith (1999) 71 Cal.App.4th 660 [83 Cal.Rptr.2d 911]
- not to convert funds
 - Johnstone v. State Bar (1966) 64 Cal.2d 153 [49 Cal.Rptr. 97, 410 P.2d 617]
 - LA 454
- reasonable duty to communicate with a lienholder as to the subject of the fiduciary obligation
 - In the Matter of Nunez (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 196
- To adverse party
 - Silberg v. Anderson (1988) 203 Cal.App.3d 29, mod. 204 Cal.App.3d 150A, mod. 50 Cal.3d 205
 - Schick v. Bach (1987) 193 Cal.App.3d 1321, 1330
- To clients
 - *GATX/Airlog Company v. Evergreen International Airlines, Inc. (1998) 8 F.Supp.2d 1182
 - In the Matter of Silverton (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 252
 - In the Matter of Johnson (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 179
 - advise attorney to in propria persona litigants
 - LA 502 (1999)
- breach warrants discipline
 - Alberton v. State Bar (1984) 37 Cal.3d 1, 14-15
- good faith and fiduciary duty owed to clients
 - Van Sloten v. State Bar (1989) 48 Cal.3d 921 [258 Cal.Rptr. 235, 771 P.3d 1323], mod. 49 Cal.3d 38a
 - Gassman v. State Bar (1976) 18 Cal.3d 125, 130
 - In re Gillis (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 387
 - In the Matter of Kittrell (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 195
- specially appearing attorney owes a duty of care to the litigant
 - Streit v. Covington & Crowe (2000) 82 Cal.App.4th 441 [82 Cal.Rptr.2d 193]
- To co-clients
 - Lysick v. Walcom (1968) 258 Cal.App.2d 136, 146 [65 Cal.Rptr. 406]
- To co-counsel
 - specially appearing attorney undertakes a limited association with the litigant's attorney of record
 - Streit v. Covington & Crowe (2000) 82 Cal.App.4th 441 [82 Cal.Rptr.2d 193]
 - LA 454
- To communicate
 - McMorris v. State Bar (1983) 35 Cal.3d 78
 - policy limits to client
 - LA 350 (1975)
 - with client
 - In the Matter of Dahlz (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 269
 - In the Matter of Freydl (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 349
 - In the Matter of Phillips (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 315
 - CAL 1983-77
 - basis for calculating fees
 - OR 99-001
- To former client's insurer
 - San Gabriel Basin Water Quality Authority v. Aerojet-General Corp. (C.D. Cal. 2000) 105 F.Supp.2d 1095
- To honor medical lien when client consents
 - Cooper v. State Bar (1987) 43 Cal.3d 1016, 1020 [239 Cal.Rptr. 709, 741 P.2d 206]
- To insured when retained by insurer
 - Purdy v. Pacific Automobile Ins. Co. (1984) 157 Cal.App.3d 59, 76 [203 Cal.Rptr. 524]
 - no duty to turn over portions of third-party recoveries made on behalf of client
 - Farmers Insurance Exchange et al. v. Smith (1999) 71 Cal.App.4th 660 [83 Cal.Rptr.2d 911]
- To non-clients
 - Silberg v. Anderson (1990) 50 Cal.3d 205
 - Lombardo v. Huysentruyt (2001) 91 Cal.App.4th 656 [110 Cal.Rptr.2d 691]
 - Morrison Knudsen Corp. v. Hancock, Rother & Bunshoft, LLP (1999) 69 Cal.App.4th 223 [81 Cal.Rptr.2d 425]
 - B.L.M. v. Sabo & Deitsch (1997) 55 Cal.App.4th 823 [64 Cal.Rptr.2d 335]
 - Pierce v. Lyman (1991) 1 Cal.App.4th 1093
 - Sodikoff v. State Bar (1975) 14 Cal.3d 422 [121 Cal.Rptr. 467, 535 P.2d 331]
 - In the Matter of Wyshak (Review Dept. 1999) 4 Cal. State Bar Ct. Rptr. 70
 - accepting non-client funds/securities to secure client fees
 - Hartford v. State Bar (1990) 50 Cal.3d 1139 [791 P.2d 598]
 - Guzzetta v. State Bar (1987) 43 Cal.3d 962 [239 Cal.Rptr. 675, 741 P.2d 172]
 - Galardi v. State Bar (1987) 43 Cal.3d 683 [238 Cal.Rptr. 774, 739 P.2d 134]
- joint venture
 - Pavicich v. Santucci (2000) 85 Cal.App.4th 382 [102 Cal.Rptr.2d 125]
- no obligation to indemnify agent when no attorney-client relationship established between client's attorney and client's agency who negotiated a contract concurrently on behalf of their mutual client
 - Major Clients Agency v. Diemer (1998) 67 Cal.App.4th 1116 [79 Cal.Rptr.2d 613]
- unrepresented party to pre-marital agreement negotiation, duty to client requires attorney to take steps to ensure agreement will be enforceable and the best assurance of enforceability is independent representation for both parties
 - In re Marriage of Bonds (2000) 24 Cal.4th 1 [99 Cal.Rptr.2d 252]
- wife, an attorney, was advised of potential conflict of interest orally and twice in writing, and wife voluntarily entered into the post-nuptial agreement while acting as her own attorney
 - In re Marriage of Friedman (2002) 100 Cal.App.4th 65 [122 Cal.Rptr.2d 412]
- To refrain from acquiring pecuniary interest adverse to former client
 - David Welch Company v. Erskine and Tully (1988) 203 Cal.App.3d 884 [250 Cal.Rptr. 339]

EDUCATIONAL ACTIVITY

Truth, employ means only consistent with
Business and Professions Code section 6068(d)
Rule 5-200, California Rules of Professional Conduct
In the Matter of Chestnut (Review Dept. 2000) 4 Cal. State
Bar Ct. Rptr. 166
LA 504 (2000), LA 464 (1991)
Undivided loyalty to client
Commercial Standard Title Co. v. Superior Court (1979) 92
Cal.App.3d 934, 945 [155 Cal.Rptr. 393]
LA 428 (1984)
Use such skill and diligence as others in the profession commonly
used
Harris v. Smith (1984) 157 Cal.App.3d 100, 103-104
Violations of California Rules of Professional Conduct
SD 1992-2, LA 440 (1986)
SF 1977-1
Withdrawal [See Conflict of interest. Substitution. Withdrawal.]
reasonable steps to avoid reasonably foreseeable prejudice
to client's rights
In the Matter of Dahlz (Review Dept. 2001) 4 Cal. State
Bar Ct. Rptr. 269
-attorney's active steps to prejudice client's rights
In the Matter of Doran (Review Dept. 1998) 3 Cal.
State Bar Ct. Rptr. 871
violation of professional responsibility
Vangsness v. Superior Court (1984) 159 Cal.App.3d 1087,
1090-1091 [206 Cal.Rptr. 45]
Witness
honor of
-advance no fact prejudicial to
Business and Professions Code section 6068(f)
reputation of
-advance no fact prejudicial to
Business and Professions Code section 6068(f)
EDUCATIONAL ACTIVITY [See Broadcasting. Business activity.
Publication.]
Lectures, seminars, teaching, etc.
Belli v. State Bar (1974) 10 Cal.3d 824
MCLE (Minimum Continuing Legal Education)
Warden v. State Bar (1999) 21 Cal.4th 628
Greenberg v. State Bar of California (2000) 78 Cal.App.4th
39 [92 Cal.Rptr.2d 493]
CAL 1972-29
LA 321 (1971), LA 286 (1965), LA 221 (1954), LA(I)1973-8
SD 1974-21, SD 1974-16, SD 1969-8, SD 1969-6
ELECTIONS [See Political activity.]
ELECTRONIC SURVEILLANCE [See Recording.]
EMBEZZLEMENT [See Client trust fund, misappropriation.
Misappropriation. Misconduct.]
EMINENT DOMAIN [See Condemnation.]
EMPLOYEE [See Fee, lay person. Lay employee. Unauthorized
Practice of Law.]
Disclosure of client confidences [See Confidences of the client.]
CAL 1979-50
Duty of attorney
to adequately supervise
-attorney liable for overdrawn bank account
Black v. State Bar (1972) 7 Cal.3d 676, 692 [103
Cal.Rptr. 288, 499 P.2d 968]
-attorney unaware collection procedures already initiated
Vaughn v. State Bar (1972) 6 Cal.3d 847, 857-858 [100
Cal.Rptr. 713, 494 P.2d 1257]
-employees' repeated neglect of client's case
Moore v. State Bar (1964) 62 Cal.2d 74, 81 [41
Cal.Rptr. 161, 396 P.2d 577]
-improper correspondence sent by staff
Crane v. State Bar (1981) 30 Cal.3d 117, 122 [177
Cal.Rptr. 670]
-lapses in office procedure deemed willful
Trousil v. State Bar (1985) 38 Cal.3d 337, 342 [211
Cal.Rptr. 525]
Palomo v. State Bar (1984) 36 Cal.3d 785 [205
Cal.Rptr. 834]

-negligent office management
Hu v. Fang (2002) 104 Cal.App.4th 61 [127
Cal.Rptr.2d 756]
In the Matter of Kaplan (Review Dept. 1993) 2 Cal.
State Bar Ct. Rptr. 509
-regarding client trust account
--no intent to defraud need be shown
Waysman v. State Bar (1986) 41 Cal.3d 452 [224
Cal.Rptr. 101]
-secretary's negligent management of client trust
account
Gassman v. State Bar (1976) 18 Cal.3d 125 [132
Cal.Rptr. 675]
to instruct concerning preserving confidences and secrets
of clients
CAL 1979-50
Duty to employer
Labor Code section 2650
EMPLOYEE ASSOCIATION [See Labor union.]
EMPLOYMENT [See Acceptance of employment. Attorney-client
relationship. Confidences of the client. Conflict of interest.]
Of attorney by office secretary
SD 1972-3
EMPLOYMENT AGENCY
CAL 1992-126
EMPLOYMENT WANTED [See Advertising. Collections.
Insurance company attorney. Lay intermediaries. Referral of legal
business. Solicitation of business. Substitution of counsel.]
Accept employment from
committee of accident victims
LA 165 (1947)
customers of own business
LA 205 (1953), LA(I) 1977-2, LA(I) 1976-9, LA(I) 1976-7
group of property owners
LA 257 (1959)
lay person or entity to serve customers of
LA 327 (1972), LA(I) 1969-4, LA(I) 1963-5
SD 1974-20
-employees of
SD 1972-3
members of client association
LA(I) 1974-14, LA(I) 1947-8
participants in educational activity
CAL 1972-29
party when criticized work of counsel of
LA 313 (1969)
pro bono clients
LA(I) 1975-6
viewers of television program
LA 318 (1970)
Accept when
selected from list prepared by insurance agent
LA(I) 1964-3
ENVELOPE [See Advertising, Solicitation.]
ESCROW [See Real estate transaction.]
Agent
represents against grantor
LA 266 (1959)
-one party in dispute over escrow
LA(I) 1955-6
returns client's deposit after discovery that client was
fraudulently induced into agreement
LA(I) 1957-1
Lawyer employee for escrow company prepares escrow
documents for customers of employer
LA 205 (1953)
Sue client for damages while holding client's stock in
LA 266 (1959)
ESTATE [See Conflict of interest, estate. Fee. Will.]
Administrator
beneficiary under will
Probate Code section 21350 et seq.
own employee for opponent's estate
LA 341 (1973)
Administrator's attorney
buys property for estate

ETHICS COMMITTEES

LA 238 (1956)
represents administrator in that capacity and in capacity as heir
CAL 1976-41
LA 237 (1956), LA 193 (1952), LA 144 (1943),
LA 72 (1934), LA(l) 1967-6
takes assignment of administrator's interest in estate to secure loan
LA 228 (1955)
Attorney as beneficiary of trust
Bank of America v. Angel View Crippled Children's Foundation (1998) 72 Cal.App.4th 451 [85 Cal.Rptr.2d 117]
Executor
beneficiary as
LA 219 (1954)
commission for sale of estate property
LA 317 (1970)
employs own lawyer employer as executor's attorney
LA 382 (1979)
in individual capacity against co-executor
LA 72 (1934)
lawyer's secretary as
LA 382 (1979)
represents
-beneficiaries in contest over heirship
LA(l) 1958-2
will contents revealed to after incompetency of client
LA 229 (1955)
Executor's attorney
acts as real estate broker in the sale of estate property
LA 470 (1992)
attorney-client relationship extends only to the executor not to the beneficiaries
Lasky, Haas, Cohler & Munter v. Superior Court (1985)
172 Cal.App.3d 264 [218 Cal.Rptr. 205]
SD 1990-2
commission for sale of estate property
LA 470 (1992), LA 317 (1970)
fee for doing executor's work
LA 382 (1979), 347 (1975)
Probate Code sections 10804 and 15687
offers to prepare claims of creditors of estate for fee
LA(l) 1961-6
own partnership
LA 219 (1954)
referral fee from broker listing estate property
SD 1989-2
represents beneficiaries against reopened estate
LA 269 (1960)
-estate as contestant in probate
LA 193 (1952)
-person in determination of heirship
LA 193 (1952), LA(l) 1965-8
-re-opened estate against
LA 269 (1960)
Liability to intended beneficiaries of amended trust resulting from attorney's failure to deliver amendment to trustee prior to death of settlor
Lombardo v. Huysentruyt (2001) 91 Cal.App.4th 656 [110 Cal.Rptr.2d 691]
Partnership
represents
-member-executor
LA 219 (1954)
-member-trustee
LA 219 (1954)
Personal representative
attorney for heir bills for services covered by statutory fees to be paid from estate
LA(l) 1956-7
Trustee
as beneficiary
LA 219 (1954)

attorney fees denied where a trustee voluntarily becomes a party to a contest between the beneficiaries over who should control and benefit from the trust
Whittlesey v. Aiello (2002) 104 Cal.App.4th 1221 [128 Cal.Rptr.2d 742]
attorney-client relationship does not extend to beneficiaries
Wells Fargo Bank v. Superior Court (Boltwood) (2000) 22 Cal.4th 201 [901 Cal.Rptr.2d 716]
Fletcher v. Superior Court (1996) 44 Cal.App.4th 773 [52 Cal.Rptr.2d 65]
Goldberg v. Frye (1990) 217 Cal.App.3d 1258, 1269
Lasky, Haas, Cohler & Munter v. Superior Court (1985) 172 Cal.App.3d 264, 282
mishandling of estate
Layton v. State Bar (1990) 50 Cal. 889 [789 P.2d 1026]
Wolf v. Mitchell, Silberberg & Knupp, et al. (1999) 76 Cal.App.4th 1030 [90 Cal.Rptr.2d 792]
partnership represents when member is
LA 219 (1954)

ETHICS COMMITTEES

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EVIDENCE

Adverse credibility determination in a disciplinary proceeding
In the Matter of Chestnut (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 166
Affirmative duty to reveal "fruit of crime" evidence to prosecution
United States v. Kellington (9th Cir. (Oregon) 2000) 217 F.3d 1084
LA 466 (1991)
Attorney-client privilege survives client's death
Swidler & Berlin v. United States (1998) 524 U.S. 399
Conclusiveness of a final disciplinary order in another jurisdiction unless the misconduct in that jurisdiction would not warrant discipline in California or unless the disciplinary proceeding in that jurisdiction lacked fundamental constitutional protection
In the Matter of Freydl (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 349
Conclusive weight given to disciplinary proceedings in Michigan despite lower standard of proof where the Michigan Supreme Court found the evidence of misconduct overwhelming
In the Matter of Jenkins (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 157
Discovery of critical evidence and improper vouching by federal prosecutor
United States v. Edwards (9th Cir. 1998) 154 F.3d 915

EX PARTE COMMUNICATION WITH JUDGE

Duty to disclose altered evidence to opposing counsel
SD 1983-3

Immaterial that evidence used is embarrassing to opponent
Rule 5-220, Rules of Professional Conduct
LA 208 (1953)

Inadequate evidence to determine conflict of interest
Pringle v. La Chappelle (1999) 73 Cal.App.4th 1000 [87 Cal.Rptr.2d 90]

Intervention by non-party holder of privilege is not necessary or required to assert Evidence Code section 954 privilege
Mylan Laboratories, Inc. v. Soon-Shiong (1999) 76 Cal.App.4th 76 [90 Cal.Rptr.2d 111]

No error in excluding evidence of attorney's willingness to stipulate to reasonable discipline
In the Matter of Silver (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 902

Objections must be timely and specific
In the Matter of Phillips (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 315

Substantial evidence in a standard 1.4(c)(ii) proceeding
In the Matter of Terrones (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 289

Waiver of a constitutional due process and equal protection argument against the application of B & P Code section 6049.1 respondent failed to argue before the hearing department or in his briefs that culpability in a Michigan disciplinary proceeding required proof only by a preponderance of the evidence
In the Matter of Freydl (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 349

EX PARTE COMMUNICATION WITH JUDGE [See Judge, Communication with judicial officers]

Rule 7-108, Rules of Professional Conduct (operative until May 26, 1989)

Rule 5-300, Rules of Professional Conduct (operative as of May 27, 1989)

"Judge" defined
Zaheri Corp. v. New Motor Vehicle Board (Mitsubishi Motor Sales of America) (1997) 55 Cal.App.4th 1305 [64 Cal.Rptr.2d 705]
CAL 1984-82

Judge engaged in improper ex parte conversations with parties and counsel about matters coming before him as a judge
In the Matter of Jenkins (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 157

Publication of article regarding pending case
LA 451 (1988), LA 343 (1974)

Regarding matter on appeal
CAL 1984-78

EXECUTOR [See Estate, executor.]

EXPENSES [See Advancement of funds. Costs. Reimbursement of attorney for expenses.]

Rule 5-104, Rules of Professional Conduct (operative until May 26, 1989)

Rule 4-210, Rules of Professional Conduct (operative effective May 27, 1989)

Advance
LA 379 (1979), LA 106 (1936)

Advanced costs by law firm per contingency fee agreement deductible as business expenses
Boccardo v. Commissioner of Internal Revenue (9th Cir. 1995) 56 F.3d 1016

Assigned counsel's duty with respect to
LA 379 (1979)

Court reporter fees
CAL 1979-48

Lawyer pays
LA 379 (1979), LA 158 (1945), LA 149 (1944), LA 106 (1936)
SF 1974-4

Of litigation
lawyer advances
LA 106 (1936)
-interest from payment until billing
LA 499 (1999)

Physician's lien
CAL 1988-101, LA 478 (1994), LA 368, LA 357

FACSIMILE TRANSMISSIONS

Filing via
Rosenberg v. Superior Court (1994) 25 Cal.App.4th 897

Solicitations via
faxing of unsolicited advertisements prohibited
Destination Ventures Limited v. Federal Communications Commission (9th Cir. 1995) 46 F.3d 54

FEE ARBITRATION

Business and Professions Code sections 6200-6206
Guidelines and Minimum Standards for the Operation of Mandatory Fee Arbitration Programs

Text is located in:

Deerings Annotated California Codes, Court Rules, and in
West's Annotated California Codes, Court Rules, Rules of Procedure for Fee Arbitration and the Enforcement of Awards, vol. 23, pt 3, p. 679

Information about the State Bar Fee Arbitration Program is available from:

State Bar of California
Fee Arbitration Program
180 Howard Street
San Francisco, California 94105
Telephone: (415) 538-2020

Binding contract provision

CAL 1981-56

Binding private arbitration clause in attorney-client fee agreement not effective where client requested mandatory arbitration pursuant to State Bar rules for fee disputes

Alternative Systems, Inc. v. Carey (1998) 67 Cal.App.4th 1034 [79 Cal.Rptr.2d 567]

Client's fee guarantor entitled to arbitrate fee dispute

Wager v. Mirzayance (1998) 67 Cal.App.4th 1187 [79 Cal.Rptr. 661]

Insurer is not a "client" for purposes of mandatory fee arbitration and may not demand an arbitration of attorney's fees incurred on behalf of an insured client

National Union Fire Insurance Co. of Pittsburgh v. Stites Professional Law Corp. (1991) 235 Cal.App.3d 1718 [1 Cal.Rptr.2d 570]

Notice of client's right to arbitrate a dispute must be given after dispute has arisen

Huang v. Chen (1998) 66 Cal.App.4th 1230 [78 Cal.Rptr.2d 550]

OR 99-002

Public policy

Alternative Systems, Inc. v. Carey (1998) 67 Cal.App.4th 1034 [79 Cal.Rptr.2d 567]

FEES [See Advancement of funds. Arbitration. Attorney's lien. Barter. Commission. Contingent fee. Contract for employment. Division of fees. Divorce, fee. Lien. Minimum fees. Solicitation of business.]

Business and Professions Code sections 6147-6149

Rule 2-107, Rules of Professional Conduct (operative until May 26, 1989)

Rule 4-200, Rules of Professional Conduct (operative as of May 27, 1989)

Actions for recovery of compensation [See 88 A.L.R.3d 246]

court cannot determine fees at ex parte or summary proceeding

Overell v. Overell (1937) 18 Cal.App.2d 499 [64 P.2d 483]

Additional compensation for unanticipated services

awarded if contract anticipated additional services

McKee v. Lynch (1940) 40 Cal.App.2d 216 [104 P.2d 675]

awarded where attorney employee performs unanticipated services

Bunn v. Lucas, Pino & Lucas (1959) 172 Cal.App.2d 450 [342 P.2d 508]

awarded where contract silent on fees

Brooks v. Van Winkle (1958) 161 Cal.App.2d 734 [327 P.2d 151]

FEES

- unavailable if attorney failed to notify client of additional services performed
 - Baldie v. Bank of America (1950) 97 Cal.App.2d 70 [217 P.2d 111]
- unavailable where attorney's contract with client is a "bad bargain" on behalf of the attorney
 - Reynolds v. Sorosis Fruit Co. (1901) 133 Cal. 625 [66 P. 21]
- "Additional fees" authorization could not be a contingency fee agreement because of failure to comply with Business and Professions Code section 6147, subdivision (a)
 - In the Matter of Silverton (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 252
- Advance payment requested from client
 - In the Matter of Lais (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 907
 - CAL 1976-38, LA 360 (1976), LA(l) 1966-4, SF 1974-4
- Advance payment retainer distinguished from true retainer
 - T & R Foods, Inc. v. Rose (1996) 47 Cal.App.4th Supp. 1 [56 Cal.Rptr.2d 41]
 - In re Montgomery Drilling Co. (E.D. Cal. 1990) 121 B.R. 32
 - In the Matter of Phillips (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 315
 - In the Matter of Lais (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 907
- Agreement
 - acquisition of adverse interest, in general
 - SF 1997-1
 - agreement providing that attorney waives specified fees if client agrees not to accept a confidentiality clause in any settlement permitted if client retains the authority to settle the case without the lawyer's consent and without the imposition of any unconscionable penalty fee
 - LA 505 (2000)
 - arbitration clause
 - binding private arbitration clause in attorney-client fee agreement not effective where client requested mandatory arbitration pursuant to State Bar rules for fee disputes
 - Alternative Systems, Inc. v. Carey (1998) 67 Cal.App.4th 1034 [79 Cal.Rptr.2d 567]
 - billing practices
 - CAL 1996-147, OR 99-001
 - confidential nature of
 - Business and Professions Code section 6149
 - court informed of
 - LA 261 (1959)
 - divorce
 - LA 261 (1959), LA 226 (1955)
 - evaluated at time of making
 - Alderman v. Hamilton (1988) 205 Cal.App.3d 1033 [252 Cal.Rptr. 845]
 - fee provision in security agreement did not serve as ground for awarding fees and costs to oversecured creditor following its successful defense of adversary preference proceeding in bankruptcy matter
 - In re Connolly (9th Cir. BAP 1999) 238 B.R. 475 [34 Bankr.Ct.Dec. 1219]
 - handle probate matter
 - for less than statutory fee
 - LA 102 (1936)
 - hybrid, hourly and contingent
 - SF 1999-1
 - prepayment required
 - LA 360 (1976), LA(l) 1966-4
 - presumption of undue influence
 - contract between attorney and client giving attorney interest in subject matter of representation
 - Cooley v. Miller & Lux (1914) 168 Cal. 120, 131 [142 P. 83]
 - fee contract with client after creation of attorney-client relationship – attorney carried burden to demonstrate fairness
 - Carlson, Collins, Gordon & Bold v. Banducci (1967) 257 Cal.App.2d 212, 227 [64 Cal.Rptr. 915]
 - lien agreement assigning anticipated statutory fees in one case to satisfy fees incurred in another unrelated case
 - does not give rise to
 - LA 496 (1998)
 - presumption does not attach where fee agreement reached before or at creation of attorney-client relationship
 - Berk v. Twenty-Nine Palms Ranchos Inc. (1962) 201 Cal.App.2d 625, 637 [20 Cal.Rptr. 144]
 - presumption of overreaching is rebuttable
 - Estate of Raphael (1951) 103 Cal.App.2d 792, 796 [230 P.2d 436]
 - presumption that contract is without sufficient consideration
 - Lady v. Worthingham (1943) 57 Cal.App.2d 557, 560 [135 P.2d 205]
 - statutory clauses required
 - Alderman v. Hamilton (1988) 205 Cal.App.3d 1033 [252 Cal.Rptr. 845]
 - strictly construed against attorney
 - Alderman v. Hamilton (1988) 205 Cal.App.3d 1033 [252 Cal.Rptr. 845]
 - without specific agreement to do a major adjustment, agreement based on fixed hourly rate which provides for possible increase is valid, but only authorizes minor adjustments
 - In re County of Orange (C.D. Cal. 1999) 241 B.R. 212 [4 Cal. Bankr. Ct. Rep. 117]
- Appeal of dismissal required to obtain appellate ruling
 - Mitchell v. City of Los Angeles (9th Cir. 1984) 741 F.2d 281
- Appeal of order denying fees
 - Los Angeles Times v. Alameda Corridor Transportation Authority (2001) 88 Cal.App.4th 1381 [107 Cal.Rptr.2d 29]
- Appointment of counsel
 - Amarawansa v. Superior Court (1996) 49 Cal.App.4th 1251 [57 Cal.Rptr.2d 249]
 - Gilbert v. Superior Court (1985) 169 Cal.App.3d 148 [215 Cal.Rptr. 305]
- additional fees not available when case is not extended or complex
 - United States v. Diaz (1992) 802 F.Supp. 304
- billing for services rendered prior to appointment
 - In re Russell John Larson (9th Cir. 1994) 174 B.R. 797
- Apportionment between attorneys
 - Kavanaugh v. City of Sunnyvale (1991) 233 Cal.App.3d 903
 - Walsh v. Woods (1982) 133 Cal.App.3d 764 [184 Cal.Rptr. 267]
 - SD 1969-4
- Apportionment between clients
 - LA 424 (1984)
- Apportionment of fee award between successful and unsuccessful claims
 - Greene v. Dillingham Construction, N.A., Inc. (2002) 101 Cal.App.4th 418 [124 Cal.Rptr.2d 250]
- Arbitration [See Fee Arbitration.]
 - Business and Professions Code section 6200, et seq.
 - Shepard v. Green (1986) 185 Cal.App.3d 989 [230 Cal.Rptr. 233]
 - Loeb & Loeb v. Beverly Glen Music, Inc. (1985) 166 Cal.App.3d 1110 [212 Cal.Rptr. 830]
 - Manatt, Phelps, Rothenberg & Tunney v. Lawrence (1984) 151 Cal.App.3d 1165 [199 Cal.Rptr. 246]
 - clarification of award suggested that attorney's fees were not included
 - Bennett v. California Custom Coach, Inc. (1991) 234 Cal.App.3d 333
- clause in retainer agreement
 - CAL 1981-56
- fee guarantor entitled to arbitrate fee dispute
 - Wager v. Mirzayance (1998) 67 Cal.App.4th 1187 [79 Cal.Rptr. 661]
- insurer is not a "client" for purposes of mandatory fee arbitration and may not demand an arbitration of attorney's fees incurred on behalf of an insured client
 - National Union Fire Insurance Co. of Pittsburgh v. Stites Professional Law Corp. (1991) 235 Cal.App.3d 1718 [1 Cal.Rptr.2d 570]

notice of client's right to arbitrate a dispute must be given after dispute has arisen
Huang v. Chen (1998) 66 Cal.App.4th 1230 [78 Cal.Rptr.2d 550]
 OR 99-002

trial de novo after award of fees by arbitrator not preserved by client's filing of malpractice action
Shiver, McGrane & Martin v. Littell (1990) 217 Cal.App.3d 1041

waiver of due to filing of affirmative relief pleading
Juodakis v. Wolfrum (1986) 177 Cal.App.3d 587

Arrangement not subject to attorney-client privilege, no revelation of confidential information
Tornay v. U.S. (9th Cir. 1988) 840 F.2d 1424
Phaksuan v. U.S. (9th Cir. 1984) 722 F.2d 591, 594

Assigned counsel's private arrangement with client
 SD 1969-9

Attempt to collect

confidences divulged in collection effort
 LA 452 (1988)

discharge [See 24 Hastings Law Journal 771; 61 Cal.L.Rev. 397; 9 Cal.Western L. Rev. 355; 6 West L.A. L.Rev. 92; 3 G.G. L.Rev. 285; 92 L.L.R.3d 690.]
Abrams & Fox v. Briney (1974) 39 Cal.App.3d 604, 609 [114 Cal.Rptr. 328]

-contingent [See Fee, attempt to collect, discharge, quantum meruit.]

--attorney properly discharged for cause entitled to enforce lien to extent of reasonable value of services performed to date of discharge
Salopek v. Schoemann (1942) 20 Cal.2d 150, 153 [124 P.2d 21]

--discharged attorney entitled only to reasonable value of services performed before discharge
Weiss v. Marcus (1975) 51 Cal.App.3d 590 [124 Cal.Rptr. 297]

--right of discharged attorney to sue for agreed fee does not arise until recovery through services of the substituted attorney
Echlin v. Superior Court (1939) 13 Cal.2d 368, 375-376 [90 P.2d 63]

-quantum meruit [See Liens.]

--attorney discharged with or without cause entitled to recover only reasonable value of services rendered prior to discharge
Ramirez v. Sturdevant (1994) 21 Cal.App.4th 904 [26 Cal.Rptr.2d 554]
Fracasse v. Brent (1972) 6 Cal.3d 784, 792 [100 Cal.Rptr. 385, 494 P.2d 9]

--discharged attorney entitled to quantum meruit recovery for reasonable value of services, upon occurrence of contingency
Ramirez v. Sturdevant (1994) 21 Cal.App.4th 904 [26 Cal.Rptr.2d 554]
Hensel v. Cohen (1984) 155 Cal.App.3d 563, 567 [202 Cal.Rptr. 85]

--discharged attorney refuses to accept offer of reasonable value of services from substituted attorney
Kallen v. Delug (1984) 157 Cal.App.3d 940, 947 [203 Cal.Rptr.879]

--pro rata formula used where contingent fee insufficient to meet quantum meruit claims of both discharged and existing counsel
Spire v. American Buslines (1984) 158 Cal.App.3d 211, 215-216 [204 Cal.Rptr. 531]

duty of succeeding attorney
Pearlmutter v. Alexander (1979) 97 Cal.App.3d Supp. 16 [158 Cal.Rptr. 762]

-action to recover
 LA 109 (1937)

-award of attorney fees based on expert testimony fixing reasonable value of services
Mayock v. Splane (1943) 56 Cal.App.2d 563, 573 [132 P.2d 827]

-award of attorney fees based on reasonable value of services supported by expert testimony
Matthiesen v. Smith (1936) 16 Cal.App.2d 479, 481-482 [60 P.2d 873]

-by associate attorney
Trimble v. Steinfeldt (1986) 178 Cal.App.3d 646 [224 Cal.Rptr. 195]

-*Civil Code section 2235 dealing with the presumption of invalidity in contracts between trustee and beneficiary does not apply to attorney/client contracts (Civil Code section 2235 was repealed 7/1/87)

Probate Code sections 16002 and 16004
Walton v. Broglio (1975) 52 Cal.App.3d 400, 403-404 [125 Cal.Rptr.123]
In the Matter of Kroff (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 838

-contracts between attorney-client; client cannot escape full payment of fees merely because attorney's services prove less valuable than contemplated
Berk v. Twentynine Palms Ranchos, Inc. (1962) 201 Cal.App.2d 625, 637 [20 Cal.Rptr. 144]

-determination of reasonable attorney fees primarily a question of fact for trial court; expert testimony unnecessary
Bunn v. Lucas, Pino & Lucas (1959) 172 Cal.App.2d 450, 468 [342 P.2d 508]

-discretion of trial court in setting value of services and in considering expert testimony; review by appeals court
Libby v. Kipp (1927) 87 Cal.App. 538, 545-548 [262 P. 68]

-effect of express contract on fees where attorney performs additional services beyond contract
Biaggi v. Sawyer (1946) 75 Cal.App.2d 105, 111-112 [170 P.2d 678]

-evidence considered in determining attorney fees
Deberry v. Cavalier (1931) 113 Cal.App. 30, 35-36 [297 P. 611]

-expert opinion by attorney on value of services questions of fact for jury; overhead office expenses may be considered in fixing value of services
Tasker v. Cochrane (1928) 94 Cal.App. 361, 365-366, 368 [271 P. 503]

-expert testimony on value of services admissible, but not essential
Spencer v. Collins (1909) 156 Cal. 298, 306-307 [104 P. 320]

-factors considered by court in determining reasonable value of attorney fees; when appeals court may modify award
Boller v. Signal Oil & Gas Co. (1964) 230 Cal.App.2d 648, 652-653, 656 [41 Cal.Rptr. 206]

-fee arbitration
 Business and Professions Code §§ 6200-6206

-power of jury to use independent judgment in fixing value of attorney services irrespective of expert testimony
Lady v. Ruppe (1931) 113 Cal.App. 606, 608 [298 P. 859]

-suit for reasonable value of services under oral contract; trial court's power to determine value independently
Elconin v. Yalen (1929) 208 Cal. 546, 548-550 [282 P. 791]

-trial court determines what constitutes reasonable attorney fees; factors considered
Melnik v. Robledo (1976) 64 Cal.App.3d 618, 623-624 [134 Cal.Rptr.602]

-where no finding of fact made as to reasonable value of services by trial court, but evidence exists in records, Supreme Court will enter finding
Kirk v. Culley (1927) 202 Cal. 501, 508 [261 P. 994]

from trustee in bankruptcy

-post-petition services
In re Alcalá (9th Cir. 1990) 918 F.2d 99

quantum meruit

-attorney's lien not payable in circumvention of the Bankruptcy Code

In re Monument Auto Detail, Inc. (9th Cir. BAP 1998) 226 B.R. 219 [33 Bankr.Ct.Dec. 419]

reasonable value of services

-effect of contract for attorney fees made after attorney-client relationship exists

Estate of Mallory (1929) 99 Cal.App. 96, 103 [278 P. 488]
Countryman v. California Trona Co. (1917) 35 Cal.App. 728, 735 [170 P. 1069]

-under invalid contingent fee contract, attorney entitled to reasonable value of services

Calvert v. Stoner (1948) 33 Cal.2d 97, 104-105 [199 P.2d 297]

-under invalid contract with client, attorney may secure reasonable value of services

Hall v. Orloff (1920) 49 Cal.App. 745, 749-750 [194 P. 296]

Attorney

applies to all causes of action arising from malpractice claim

Waters v. Bourhis (1985) 40 Cal.3d 424 [220 Cal.Rptr. 666]

illegal

In the Matter of Bailey (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 220

Attorney obliged to do their best for their clients whatever the fee arrangement and are duty bound to maximize results and expedite resolution; anything less would be unethical and dishonorable

In re County of Orange (C.D. Cal. 1999) 241 B.R. 212 [4 Cal. Bankr. Ct. Rep. 117]

Attorney's fees agreed to by contract

agreement based on fixed hourly rate but provides for possible increase found valid

In re County of Orange (C.D. Cal. 1999) 241 B.R. 212 [4 Cal. Bankr. Ct. Rep. 117]

allowed to oversecured creditor

In re Salazar (9th Cir. BAP 1988) 82 B.R. 538

authorization for attorney to keep any extra sums resulting from a compromise of the claims of medical care providers

In the Matter of Silverton (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 252

corporate in-house counsel entitled to reasonable fees under Civil Code section 1717

PLCM Group, Inc. v. Drexler (2000) 22 Cal.4th 1084 [95 Cal. Rptr.2d 198] as modified (June 2, 2000)

Attorney's fees should be adequate to promote consumer class action

Feuerstein v. Burns (S.D. Cal. 1983) 569 F.Supp. 268, 271

Attorney/client interests

so great as to make both parties on appeal for attorney's fees

Kordich v. Marine Clerks Association (9th Cir. 1983) 715 F.2d 1392

Authority of arbitrator to award fees under the terms of the controlling arbitration agreement

Kahn v. Chetcuti (2002) 101 Cal.App.4th 61 [123 Cal.Rptr.2d 606]

Authority of attorney

attorney had no right to file proposed fee order after discharge and substitution out of case

In re Marriage of Read (2002) 97 Cal.App.4th 476 [118 Cal.Rptr.2d 497]

Award of attorney's fees

absent agreement, fees awarded pursuant to California FEHA belong to attorneys who labored on case and not to client

Flannery v. Prentice (2001) 26 Cal.4th 572 [110 Cal.Rptr.2d 809, 28 P.3d 860]

Jones v. Drain (1983) 149 Cal.App.3d 484, 490 [196 Cal.Rptr. 827]

adjustment of award to account for unsuccessful claims

Greene v. Dillingham Construction, N.A., Inc. (2002) 101 Cal.App.4th 418 [124 Cal.Rptr.2d 250]

against government

U.S. v. Real Property at 2659 Roundhill Drive, Alamo, California (9th Cir. 2002) 283 F.3d 1146

Hoang Ha v. Schweiker (9th Cir. 1983) 707 F.2d 1104, 1106

-under Equal Access to Justice Act

U.S. v. Marolf (9th Cir. 2002) 277 F.3d 1156

U.S. v. One 1997 Toyota Land Cruiser (9th Cir. 2001) 248 F.3d 899

U.S. v. Real Property Known as 22249 Dolorosa Street (9th Cir. 2000) 190 F.3d 977

agreement providing that trial court will determine prevailing party and award of attorney fees is valid and enforceable

Jackson v. Homeowners Association Monte Vista Estates-East (2001) 93 Cal.App.4th 773 [113 Cal.Rptr.2d 363]

"American Rule" that each party must bear its own legal fees

-city manager, analogous to a corporate employee, not liable for attorney's fees based upon conduct on behalf of employer

Golden West Baseball Co. v. Talley (1991) 232 Cal.App.3d 1294

-does not apply where each parties have agreed to allocate attorney fees by contract

Mix v. Tumanjan Development Corp. (2002) 102 Cal.App.4th 1318 [126 Cal.Rptr.2d 267]

Gilbert v. Master Washer & Stamping Co., Inc. (2000) 87 Cal.App.4th 212 [104 Cal.Rptr.2d 461]

-"third-party tort" exception

Schneider, Friedman, Collard, Poswell & Virga (1991) 232 Cal.App.3d 1276

appellate review of order fixing amount of attorney fees not available until entry of final judgment

Nimmagadda v. Krishnamurthy (1992) 3 Cal.App.4th 1505

apportionment of fees

-not required if successful and unsuccessful claims are interrelated

Akins v. Enterprise Rent-A-Car of San Francisco (2000) 79 Cal.App.4th 1127 [94 Cal.Rptr.2d 448]

arbitration cases

-arbitration award may be modified where arbitrator inadvertently failed to rule on prevailing party's claim to attorney's fees and costs

Century City Medical Plaza v. Sperling, Issacs & Eisenberg (2000) 86 Cal.App.4th 865 [103 Cal.Rptr.2d 605]

-arbitrator's denial of attorney's fees was not subject to judicial review where issue of fees was within scope of matters submitted for binding arbitration

Moshonov v. Walsh (2000) 22 Cal.4th 771 [94 Cal.Rptr.2d 597]

Moore v. First Bank of San Luis Obispo (2000) 22 Cal.4th 782 [94 Cal.Rptr.2d 603]

Harris v. Sandro (2002) 96 Cal.App.4th 1310 [117 Cal.Rptr.2d 910]

-arbitrator's determination of prevailing party is not subject to appellate review

Pierotti, et al. v. Torian (2000) 81 Cal.App.4th 17 [96 Cal.Rptr.2d 553]

-authority of arbitrator to amend or correct a final award

Delaney v. Dahl (2002) 99 Cal.App.4th 647 [121 Cal.Rptr.2d 663]

attorney-client fee agreements may provide for reasonable

Franklin v. Appel (1992) 8 Cal.App.4th 875 [10 Cal.Rptr.2d 759]

Lawrence v. Walzer & Gabrielson (1989) 207 Cal.App.3d 1501 [256 Cal.Rptr. 6]

attorney-litigant representing self in pro se

Leaf v. City of San Mateo (1984) 150 Cal.App.3d 1184, 1189 [198 Cal.Rptr. 447]

attorney's fees and costs to prevailing party

International Billing Services, Inc. v. Emigh (2000) 84 Cal.App.4th 1175 [101 Cal.Rptr.2d 532]

authority of arbitrator to determine whether the filing of a complaint before mediation barred award of fees

Kahn v. Chetcuti (2002) 101 Cal.App.4th 61 [123 Cal.Rptr.2d 606]

FEES

bankruptcy action

In re Jastrem (9th Cir. 2001) 253 F.3d 438 [37 Bankr.Ct.Dec. 275]

In re Levander (9th Cir. 1999) 180 F.3d 1114

In re Auto Parts Club, Inc. (9th Cir. 1997) 211 B.R. 29

Bankruptcy of Harvey (9th Cir. 1994) 172 B.R. 314

-attorney's fees denied without court authorization

In re Monument Auto Detail, Inc. (9th Cir. BAP 1998) 226 B.R. 219 [33 Bankr.Ct.Dec. 419]

-automatic stay of proceedings

In re Jastrem (9th Cir. 2001) 253 F.3d 438 [37 Bankr.Ct.Dec. 275]

In re Hines (9th Cir. BAP 1998) 198 B.R. 767 [36 Collier Bankr. CAS2d 577]

-bankruptcy court did not abuse its discretion in declining to decide post-dismissal motion to enforce fee agreement between debtor and attorney

In re Elias (9th Cir. BAP 1999) 188 F.3d 1160 [34 Bankr.Ct.Dec. 1229]

-chapter 7 debtor's attorney may receive professional fees from bankruptcy estate for post-petition services

In re Jastrem (9th Cir. 2001) 253 F.3d 438 [37 Bankr.Ct.Dec. 275]

In re Century Cleaning Services, Inc. (9th Cir. BAP 1999) 195 F.3d 1053 [35 Bankr.Ct.Dec. 63]

-chapter 11 debtor's counsel entitled to attorney's fees only for services benefitting the estate

In re Xebec (9th Cir. 1992) 147 B.R. 518

-contingent fee agreement, pre-approved by the bankruptcy court, should control the amount of compensation awarded unless it is determined that the agreement was "improvident" in light of unforeseeable developments

In re Reimers (9th Cir. 1992) 972 F.2d 1127

-court may enhance fee in exceptional circumstance

In re Manoa Finance Company (9th Cir. 1988) 853 F.2d 687

-disgorgement of attorney fees against firm and attorney employee is proper

Bankruptcy of Sandoval (9th Cir. 1995) 186 B.R. 490

-disgorgement of attorney fees against firm not proper where law firm representation was approved by court

In re S.S. Retail Stores (9th Cir. 2000) 216 F.3d 882 [36 Bankr.Ct.Dec. 79]

-disgorgement of attorney fees is allowed after violation of bankruptcy code and rules

Bankruptcy of Basham (9th Cir. 1997) 208 B.R. 926

-emergency nature of legal services provided before court appointment justifies fee award to former counsel

Bankruptcy of Larson (9th Cir. 1994) 174 B.R. 797

-fee provision in security agreement did not serve as ground for awarding fees and costs to oversecured creditor following its successful defense of adversary preference proceeding

In re Connolly (9th Cir. BAP 1999) 238 B.R. 475 [34 Bankr.Ct.Dec. 1219]

-fees incurred in opposing objections to final fee application for winding up estate properly disallowed

In re Riverside-Linden Investment Co. (9th Cir. 1991) 945 F.2d 320

-fees recoverable if they are linked to litigation seeking to enforce a contract

In re LCO Enterprises, Inc. (9th Cir. 1995) B.R. 567 [27 Bankr.Ct.Dec. 201]

-in accordance with state law

In re Coast Trading Co., Inc. (9th Cir. 1984) 744 F.2d 686, 693

-not awarded to alleged tortfeasor who was wholly exonerated and sought attorney fees from co-defendant on theory of implied indemnity under CCP § 1021.6

Watson v. Department of Transportation (1998) 68 Cal.App.4th 885 [80 Cal.Rptr.2d 594]

-open book account attorneys fees claim not barred by statute of limitations

In re Robert Farms, Inc. (9th Cir. 1992) 980 F.2d 1248

-"reasonable attorneys' fees" calculated by court only a small fraction of actual amount charged by plaintiff's attorneys

Meister v. Regents of the University of California (1998) 67 Cal.App.4th 437 [78 Cal.Rptr. 913]

-request must be scaled to expected recovery

In re Kitchen Factors, Inc. (9th Cir. 1992) 143 B.R. 560

Unsecured Creditors' Committee v. Puget Sound Plywood (9th Cir. 1991) 924 F.2d 955

-right to based on contract

In re County of Orange (C.D. Cal. 1999) 241 B.R. 212 [4 Cal. Bankr. Ct. Rep. 117]

In re Coast Trading Co., Inc. (9th Cir. 1984) 744 F.2d 686, 693-694

based on bad faith actions

McElwaine v. US West, Inc. (9th Cir. (Arizona) 1999) 176 F.3d 1167

Association of Flight Attendants, AFL-CIO v. Horizon Air Industries, Inc. (9th Cir. 1992) 976 F.2d 541

Brandt v. Superior Court (1985) 37 Cal.3d 813 [210 Cal.Rptr. 211]

United Services Automotive Association v. Dalrymple (1991) 232 Cal.App.3d 182 [283 Cal.Rptr. 330]

On v. Cow Hollow Properties (1990) 222 Cal.App.3d 1568 [272 Cal.Rptr. 535]

-bad faith cannot be inferred from fact that party was unsuccessful

Rosenman v. Christensen, Miller, Fink, Jacobs, Glaser, Weil & Shapiro (2001) 91 Cal.App.4th 859 [110 Cal.Rptr.2d 903]

based on underlying suit

Stanwood v. Green (9th Cir. 1984) 744 F.2d 714

basis for court decision

-attorney conduct

--justified by the vexatious, oppressive, obdurate, and bad faith conduct of litigation

Landsberg v. Scrabble Crossword Game Players, Inc. (9th Cir. 1984) 736 F.2d 485

--limits zealous advocacy

Lone Ranger Television v. Program Radio Corp. (9th Cir. 1984) 740 F.2d 718, 727

-court must articulate factors used to calculate award

Ferland v. Conrad Credit Corp. (9th Cir. 2001) 244 F.3d 1145

Beaty v. BET Holdings, Inc. (9th Cir. 2000) 222 F.3d 607

Ramos v. Countrywide Home Loans, Inc. (2000) 82 Cal.App.4th 615 [98 Cal.Rptr.2d 388]

-denial of attorney's fees in second case where primary benefit already conferred upon client in first case

Kerr v. Screen Extras Guild, Inc. (9th Cir. 1975) 526 F.2d 67, 70-71; Cert. denied 425 U.S. 951 [96 S.Ct. 1726]

-district court presiding over settlement fund had equitable power to award attorney fees for work outside litigation immediately before court where that work helped create settlement fund

Wininger v. SI Management, L.P. (9th Cir. 2002) 301 F.3d 1115

-explanation required of trial court's calculation in order to withstand review

United Steelworkers of America v. Phelps Dodge Corp. (9th Cir. 1990) 896 F.2d 403

-in dissolution matter, denial of attorney's fees under CC § 4370 (Family Law Act)

Brink v. Brink (1984) 155 Cal.App.3d 218, 223 [202 Cal.Rptr. 57]

basis of computation

McElwaine v. US West, Inc. (9th Cir. (Arizona) 1999) 176 F.3d 1167

Jones v. Espy (1993) 10 F.3d 690

City of Burlington v. Dague (1992) 505 U.S. 557 [112 S.Ct. 2638]

State of Florida v. Dunne (9th Cir. 1990) 915 F.2d 542

D'Emanuele v. Montgomery Ward & Co. (9th Cir. 1990) 904 F.2d 1379

- United Steelworkers of America v. Phelps Dodge Corp. (9th Cir. 1990) 896 F.2d 403
- Boccatto v. City of Hermosa Beach (1984) 158 Cal.App.3d 804, 811-812 [204 Cal.Rptr. 727]
- court must articulate factors used to calculate award
- Wininger v. SI Management, L.P. (9th Cir. 2002) 301 F.3d 1115
- Ferland v. Conrad Credit Corp. (9th Cir. 2001) 244 F.3d 1145
- Beaty v. BET Holdings, Inc. (9th Cir. 2000) 222 F.3d 607
- Ramos v. Countrywide Home Loans, Inc. (2000) 82 Cal.App.4th 615 [98 Cal.Rptr.2d 388]
- extent of plaintiff's success
- In re County of Orange (C.D. Cal. 1999) 241 B.R. 212 [4 Cal. Bankr. Ct. Rep. 117]
- Cinevision Corp. v. City of Burbank (9th Cir. 1984) 745 F.2d 560, 581
- fees awards in federal securities fraud actions must be reasonable in relation to plaintiffs' recovery
- Powers v. Eichen (9th Cir. 2000) 229 F.3d 1249
- hours that are not properly billed to one's client are also not properly billed to one's adversary pursuant to statutory authority
- MacDougal v. Catalyst Nightclub (1999) 58 F.Supp.2d 1101
- in Title VII action
- Maldonado v. Lehman (9th Cir. 1987) 811 F.2d 1341
- negative multiplier decreasing the lodestar is justified where amount of time attorney spent on class action case was unreasonable and duplicative
- Thayer v. Wells Fargo Bank (2001) 92 Cal.App.4th 819, mod. at 93 Cal.App.4th 324A [112 Cal.Rptr.2d 284]
- prevailing market rate in relevant community for action by corporate in-house counsel under Civil Code section 1717
- PLCM Group, Inc. v. Drexler (2000) 22 Cal.4th 1084 [95 Cal. Rptr.2d 198] as modified (June 2, 2000)
- trial court must adequately explain the basis for the award in a federal securities fraud action
- Powers v. Eichen (9th Cir. 2000) 229 F.3d 1249
- under Penal Code § 1202.4(f)(3), victim of convicted drunk driver was entitled to restitution for attorney services incurred to recover both economic and noneconomic damages
- People v. Fulton (2002) 99 Cal.App.4th 1292 [121 Cal.Rptr.2d 828]
- value of an estate is a factor in setting fees in elder abuse cases
- Conservatorship of Levitt (2001) 93 Cal.App.4th 544 [113 Cal.Rptr.2d 294]
- "benchmark" fee calculation
- In re County of Orange (C.D. Cal. 1999) 241 B.R. 212 [4 Cal. Bankr. Ct. Rep. 117]
- civil rights cases
- Trevino v. Gates (1995) 888 F.Supp. 1509
- Stewart v. Gates (1993) 987 F.2d 1450
- Texas State Teachers Association v. Garland Independent School District (1989) 489 U.S. 782 [109 S.Ct. 1486]
- consent decree's silence as to attorney's fees not waiver for prevailing party
- Muckleshoot Tribe v. Puget Sound Power & Light Co. (9th Cir. 1989) 875 F.2d 695
- denial of fees based on special circumstances under traditional prevailing party analysis
- San Francisco N.A.A.C.P. v. San Francisco Unified School District (9th Cir. 2002) 284 F.3d 1163
- fees paid directly to plaintiff's counsel by defendant pursuant to ADEA's fee-shifting provision is taxable income to plaintiff
- Sinyard v. Commissioner of Internal Revenue (9th Cir. 2001) 268 F.3d 756
- party that won consent decree but was later unsuccessful in defending decree in a separate action not entitled to award of fees and costs
- San Francisco N.A.A.C.P. v. San Francisco Unified School District (9th Cir. 2002) 284 F.3d 1163
- party who wins nominal damages for violation of their civil rights may be denied attorney's fees from those they sue
- Farrar v. Hobby (1992) 506 U.S. 103 [113 S.Ct. 566]
- Choate v. County of Orange (2001) 86 Cal.App.4th 312 [103 Cal.Rptr.2d 339]
- waiver of
- Wakefield v. Mathews (1988) (9th Cir. 1988) 852 F.2d 482
- claim for legal fees in Chapter 11 matter not time barred
- In re Robert Farms, Inc. (9th Cir. 1992) 980 F.2d 1248
- class action
- In re Quantum Health Resources, Inc. (C.D. Cal. 1997) 962 F.Supp. 1254
- In re FPI/Agretech Securities Litigation (9th Cir. 1997) 105 F.3d 469
- Sneede v. Coye (1994) 856 F.Supp. 526
- Evans v. Jeff D. (1986) 475 U.S. 717 [106 S.Ct. 1531]
- Morganstein v. Esber (1991) 768 F.Supp. 725
- LA 445 (1987)
- extra award allowed lawyer who creates common fund
- Paul v. Graulity (9th Cir. 1989) 886 F.2d 268
- class action
- absent class members not liable for employer's attorney's fees in overtime dispute
- Earley v. Superior Court (2000) 79 Cal.App.4th 1420 [95 Cal.Rptr.2d 57]
- amount of fees determined to be reasonable in light of quantity and quality
- 7-Eleven Owners for Fair Franchising v. The Southland Corporation (2000) 85 Cal.App.4th 1135 [102 Cal.Rptr.2d 277]
- attorney's fees for securities class action suits should be based on individual case risk
- In re Quantum Health Resources, Inc. (C.D. Cal. 1997) 962 F.Supp. 1254
- awarded pursuant to Civil Code section 1717
- Acree v. General Motors Acceptance Corp. (2001) 92 Cal.App.4th 385 [112 Cal.Rptr.2d 99]
- Feuerstein v. Burns (S.D. Cal. 1983) 569 F.Supp. 271
- fee allocation among co-counsel subject to court approval
- In re FPI/Agretech Securities Litigation (9th Cir. 1997) 105 F.3d 469
- fees paid directly to plaintiff's counsel by defendant pursuant to ADEA's fee-shifting provision is taxable income to plaintiff
- Sinyard v. Commissioner of Internal Revenue (9th Cir. 2001) 268 F.3d 756
- lodestar adjustment based on benefit conferred on class by class counsel
- Wininger v. SI Management, L.P. (9th Cir. 2002) 301 F.3d 1115
- Lealao v. Beneficial California Inc. (2000) 82 Cal.App.4th 19 [97 Cal.Rptr.2d 797]
- lodestar multiplier reduction is justified where amount of time attorney spent on case was unreasonable and duplicative
- Thayer v. Wells Fargo Bank (2001) 92 Cal.App.4th 819, mod. at 93 Cal.App.4th 324A [112 Cal.Rptr.2d 284]
- no abuse of discretion where district court failed to increase the fee award to account for the class members' view of the requested fee award because there was an early settlement; the court used the lodestar method and applied a 1.5 multiplier for counsel's 100% success rate
- Fischel v. Equitable Life Assurance Society of the U.S. (9th Cir. 2002) 307 F.3d 997
- standing of objecting class member in securities fraud settlement is not needed for reconsideration and reduction of attorney fees award to class
- Zucker v. Occidental Petroleum (9th Cir. 1999) 192 F.3d 1323
- standing to appeal awards of
- Lobatz v. U.S. West Cellular (9th Cir. 2000) 222 F.3d 1142
- client may not keep fees which are measured by and paid on account of attorney's services
- Image Technical Services v. Eastman Kodak Co. (9th Cir. 1998) 136 F.3d 1354

FEES

client security fund

-assisting applicant

Saleeby v. State Bar (1985) 39 Cal.3d 547 [216 Cal.Rptr. 367, 702 P.2d 525]

common fund/equitable apportionment doctrine

Wininger v. SI Management, L.P. (9th Cir. 2002) 301 F.3d 1115

State of Florida ex rel. Butterworth v. Exxon Corp. (9th Cir. 1997) 109 F.3d 602

City and County of San Francisco v. Sweet (1995) 12 Cal.4th 105, 110, 115-117

Lealao v. Beneficial California Inc. (2000) 82 Cal.App.4th 19 [97 Cal.Rptr.2d 797]

Lovett v. Carrasco (1998) 63 Cal.App.4th 48 [73 Cal.Rptr.2d 496]

-passive beneficiary

Kavanaugh v. City of Sunnyvale (1991) 233 Cal.App.3d 903

congressional intent

Kreutzer v. County of San Diego (1984) 153 Cal.App.3d 62, 75 [200 Cal.Rptr. 322]

contract for

De La Cuesta v. Superior Court (1984) 152 Cal.App.3d 945 [200 Cal.Rptr. 1]

-agreement based on fixed hourly rate but provides for possible increase found valid

In re County of Orange (C.D. Cal. 1999) 241 B.R. 212 [4 Cal. Bankr. Ct. Rep. 117]

-basis for

Glendora Community Redevelopment Agency v. Demeter (1984) 155 Cal.App.3d 465 [202 Cal.Rptr. 389]

-complete mutuality of remedy when contract purports to make recovery of attorney fees available to one or more parties

Pacific Preferred Properties v. Moss (1999) 71 Cal.App.4th 1456 [84 Cal.Rptr.2d 500]

Harbor View Hills Community Association v. Torley (1992) 5 Cal.App.4th 343

-governed by equitable principles

Burge v. Dixon (1984) 152 Cal.App.3d 1120, 1128 [199 Cal.Rptr. 899]

-reciprocal provision

Nasser v. Superior Court (1984) 156 Cal.App.3d 52 [202 Cal.Rptr. 552]

-recovery of attorney's fees may be awarded notwithstanding an invalid contract

Yuba Cypress Housing Partners, Ltd. v. Area Developers (2002) 98 Cal.App.4th 1077 [120 Cal.Rptr.2d 273]

-state reciprocity rule for attorney's fees by contract applies to damages based on federal law

United States v. Callahan (9th Cir. 1989) 884 F.2d 1180

-third party claimant who was not intended beneficiary of attorney fee clause in contract denied award

Sessions Payroll Management, Inc. v. Noble Construction (2000) 84 Cal.App.4th 671 [101 Cal.Rptr.2d 127]

contractual

PR Burke Corp. v. Victor Valley Wastewater Reclamation Authority (2002) 98 Cal.App.4th 1047 [120 Cal.Rptr.2d 98]

Share v. Casiano-Bel-Air Homeowners Assn. (1989) 215 Cal.App.3d 515

California Teachers Assn. v. Governor's Board of the Simi Valley Unified School District (1984) 161 Cal.App.3d 393 [207 Cal.Rptr. 659]

-absent agreement, fees awarded pursuant to California FEHA belong to attorneys who labored on case and not to client

Flannery v. Prentice (2001) 26 Cal.4th 572 [110 Cal.Rptr.2d 809, 28 P.3d 860]

-attorney fees may be awarded to attorneys who represent each other in fee dispute with client that attorneys jointly represented

Farmers Insurance Exchange v. Law Offices of Conrado Joe Sayas, Jr. (9th Cir. 2001) 250 F.3d 1234

-available for successfully defending or prosecuting an appeal
MST Farms v. C.G. 1464 (1988) 204 Cal.App.3d 304 [251 Cal.Rptr. 72]

-recovery of attorney's fees may be awarded notwithstanding an invalid contract

Yuba Cypress Housing Partners, Ltd. v. Area Developers (2002) 98 Cal.App.4th 1077 [120 Cal.Rptr.2d 273]

-under CC § 1717, provision for attorney's fees may be awarded even if contract is invalid or unenforceable

Yuba Cypress Housing Partners, Ltd. v. Area Developers (2002) 98 Cal.App.4th 1077 [120 Cal.Rptr.2d 273]

-under CC § 1717, provision for attorney's fees must be applied mutually and equally to all parties even if written otherwise

Mix v. Tumanjan Development Corp. (2002) 102 Cal.App.4th 1318 [126 Cal.Rptr.2d 267]

Topanga and Victory Partners v. Toghia (2002) 103 Cal.App.4th 775 [127 Cal.Rptr.2d 104]

Gilbert v. Master Washer & Stamping Co., Inc. (2000) 87 Cal.App.4th 212 [104 Cal.Rptr.2d 461]

International Billing Services, Inc. v. Emigh (2000) 84 Cal.App.4th 1175 [101 Cal.Rptr.2d 532]

Scott Co. of California v. Blount Co. (1999) 20 Cal.4th 1103 [86 Cal.Rptr.2d 614]

contractual versus statutory

Silver v. Boatwright Home Inspection, Inc. (2002) 97 Cal.App.4th 443 [118 Cal.Rptr.2d 475]

Wong v. Thrifty Corp. (2002) 97 Cal.App.4th 261 [118 Cal.Rptr.2d 276]

Loube v. Loube (1998) 64 Cal.App.4th 421 [74 Cal.Rptr.2d 906]

-attorney fees may be awarded to attorneys who represent each other in fee dispute with client that attorneys jointly represented

Farmers Insurance Exchange v. Law Offices of Conrado Joe Sayas, Jr. (9th Cir. 2001) 250 F.3d 1234

-awarded on contract claims in accordance with Civil Code § 1717

Mix v. Tumanjan Development Corp. (2002) 102 Cal.App.4th 1318 [126 Cal.Rptr.2d 267]

Del Cerro Mobile Estates v. Proffer (2001) 87 Cal.App.4th 943 [105 Cal.Rptr.2d 5]

Fairchild v. Park (2001) 90 Cal.App.4th 919 [109 Cal.Rptr.2d 442]

International Billing Services, Inc. v. Emigh (2000) 84 Cal.App.4th 1175 [101 Cal.Rptr.2d 532]

Pacific Custom Pools, Inc. v. Tumer Construction Co. (2000) 79 Cal.App.4th 1254 [94 Cal.Rptr.2d 756]

First Nationwide Bank v. Mountain Cascade Inc. (2000) 77 Cal.App.4th 871 [92 Cal.Rptr.2d 145]

Oliver v. Bradshaw (1999) 68 Cal.App.4th 1515

Excess Electronix v. Heger Realty Corp. (1998) 64 Cal.App.4th 698 [75 Cal.Rptr.2d 376]

--prevailing party status irrelevant when defendant was not a party to the underlying contract

Topanga and Victory Partners v. Toghia (2002) 103 Cal.App.4th 775 [127 Cal.Rptr.2d 104]

-computation of under CCP § 998 offer

Carver v. Chevron U.S.A., Inc. (2002) 97 Cal.App.4th 132 [118 Cal.Rptr.2d 569]

Mesa Forest Products Inc. v. St. Paul Mercury Insurance Co. (1999) 73 Cal.App.4th 324 [86 Cal.Rptr.2d 398]

Scott Co. of California v. Blount Co. (1999) 20 Cal.4th 1103 [86 Cal.Rptr.2d 614]

Mesa Forest Products, Inc. v. St. Paul Mercury Insurance Co. (1999) 73 Cal.App.4th 324

Wilson's Heating & Air Conditioning v. Wells Fargo Bank (1988) 202 Cal.App.3d 1326 [249 Cal.Rptr. 553]

Harvard Investment Co. v. Gap Stores, Inc. (1984) 156 Cal.App.3d 704, 712-714 [202 Cal.Rptr. 891]

-corporate in-house counsel entitled to reasonable fees under Civil Code section 1717

PLCM Group, Inc. v. Drexler (2000) 22 Cal.4th 1084 [95 Cal. Rptr.2d 198] as modified (June 2, 2000)

FEES

- effect of voluntary dismissal upon recovery of non-contractual causes of action
 - Topanga and Victory Partners v. Toghia (2002) 103 Cal.App.4th 775 [127 Cal.Rptr.2d 104]
- limitation on contingency contract under MICRA as codified in Bus. & Prof. Code § 6146
 - Roa v. Lodi Medical Group, Inc. (1985) 37 Cal.3d 920, 925-926 [211 Cal.Rptr. 77]
- prevailing party entitled to attorney's fees under Civil Code section 1717 if opposing party has sought attorney's fees under it
 - Pacific Custom Pools, Inc. v. Turner Construction Co. (2000) 79 Cal.App.4th 1254 [94 Cal.Rptr.2d 756]
 - Manier v. Anaheim Business Center Co. (1984) 161 Cal.App.3d 503, 507-509
- prevailing party entitled to fees under Code of Civil Procedure section 1032 even where no net recovery by prevailing party
 - Pirkig v. Dennis (1989) 215 Cal.App.3d 1560
- cost of litigation includes attorney fees and expert witness fees for purposes of applying automatic stay provisions
 - Pecsok v. Black (1992) 7 Cal.App.4th 456 [9 Cal.Rptr.2d 12]
- court has discretion to consider the success or failure of the litigation as one factor in assessing attorney fees
 - Beaty v. BET Holdings, Inc. (9th Cir. 2000) 222 F.3d 607
- court may require declaration before ordering
 - Lang v. Superior Court (1984) 153 Cal.App.3d 510, 517 [200 Cal.Rptr. 526]
- depends upon whether plaintiff is entitled to fees and whether court has discretion
 - Powell v. United States Dept. of Justice (N.D. Cal. 1983) 569 F.Supp. 1192
- criminal law
 - under Penal Code § 1202.4(f)(3), allows restitution only for that portion of attorney fees attributable to the victim's recovery of economic damages
 - People v. Fulton (2002) 99 Cal.App.4th 1292 [121 Cal.Rptr.2d 828]
- delay in payment should be considered in determining award
 - Fischel v. Equitable Life Assurance Society of the U.S. (9th Cir. 2002) 307 F.3d 997
- despite party's failure to file noticed motion
 - Excess Electronix v. Heger Realty Corp. (1998) 64 Cal.App.4th 698 [75 Cal.Rptr.2d 376]
 - California Recreation Industries v. Kierstead (1988) 199 Cal.App.3d 203 [244 Cal.Rptr. 632]
- discretion of district court
 - abuse where quality of representation was used to reduce lodestar amount
 - Van Gerwin v. Guarantee Mutual Life Co. (9th Cir. 2000) 214 F.3d 1041
- discretion of trial court
 - court may determine need of spouse for award of attorney's fees – abuse of discretion where court exceeds bounds of reason
 - In re Marriage of Schaffer (1984) 158 Cal.App.3d 930, 935-936 [205 Cal.Rptr. 88]
 - de minimus damages award merits de minimus fee award
 - Choate v. County of Orange (2001) 86 Cal.App.4th 312 [103 Cal.Rptr.2d 339]
 - trial judge in best position to evaluate value of attorney's services in courtroom
 - Glendora Community Redevelopment Agency v. Demeter (1984) 155 Cal.App.3d 465, 474 [202 Cal.Rptr. 389]
 - Vella v. Hudgins (1984) 151 Cal.App.3d 515, 522 [198 Cal.Rptr. 725]
 - trial judge's discretion to issue a fee reduction
 - Trask v. Superior Court (1994) 22 Cal.App.4th 346 [27 Cal.Rptr.2d 425]
 - value of legal services a matter in which the trial court has its own expertise
 - PLMC Group, Inc. v. Drexler (2000) 22 Cal.4th 1084, 1096
 - Conservatorship of Levitt (2001) 93 Cal.App.4th 544 [113 Cal.Rptr.2d 294]
- district court required to consider twelve factors
 - Laborers' Clean-up Contract v. Uriarte Clean-up Service (9th Cir. 1984) 736 F.2d 516, 525
- MacDougal v. Catalyst Nightclub (1999) 58 F.Supp.2d 1101 each party is expected to pay own fees
- Gray v. Don Miller & Associates, Inc. (1984) 35 Cal.3d 498, 504-509
- effect of an appeal on
 - Sherry H. v. Thomas B. (1988) 203 Cal.App.3d 1500 [250 Cal.Rptr. 830]
- elder abuse cases
 - value of an estate is a factor in setting fees
 - Conservatorship of Levitt (2001) 93 Cal.App.4th 544 [113 Cal.Rptr.2d 294]
- entitlement based on contract or statute
 - Wutzke v. Bill Reid Painting Service, Inc. (1984) 151 Cal.App.3d 36, 46-47
- entitlement to attorney's fees, but not the amount of the fee award is interlocutory. An appeal from a post judgement order awarding attorney's fees may be reviewed as to the entitlement and the amount of the fees awarded.
 - PR Burke Corp. v. Victor Valley Wastewater Reclamation Authority (2002) 98 Cal.App.4th 1047 [120 Cal.Rptr.2d 98]
- Division of, with attorney associated on a particular matter
 - Chambers v. Kay (2002) 29 Cal.4th 142 [126 Cal.Rptr.2d 536]
- Sims v. Charness (2001) 86 Cal.App.4th 884 [103 Cal.Rptr.2d 619]
- Equal Access to Justice Act
 - U.S. v. Marolf (9th Cir. 2002) 277 F.3d 1156
 - U.S. v. Real Property at 2659 Roundhill Drive, Alamo, California (9th Cir. 2002) 283 F.3d 1146
 - U.S. v. One 1997 Toyota Land Cruiser (9th Cir. 2001) 248 F.3d 899
 - United States v. Rubin (9th Cir. 1996) 97 F.3d 373
 - Holt v. Shalala (9th Cir. 1994) 35 F.3d 376
- abuse of discretion not found
 - Williams v. Bowen (9th Cir. 1991) 934 F.2d 221; 966 F.2d 1259
- award denied
 - Gray v. Secretary, Health and Human Services (1993) 983 F.2d 954
- applies to contested petitions for naturalization
 - Abela v. Gustafson (9th Cir. 1989) 888 F.2d 1258
- award should encompass fees incurred in subsequent litigation to protect that fee award
 - Spurlock v. Sullivan (1992) 790 F.Supp. 979; 783 F.Supp 474
 - Byrnes v. Riles (1984) 157 Cal.App.3d 1170 [204 Cal.Rptr. 100]
- error to deny award on basis that the court lacked subject matter jurisdiction
 - United States v. 87 Skyline Terrace (9th Cir. 1994) 26 F.3d 923
- navy officer who successfully challenged his discharge for stating that he was gay is entitled to attorney fees
 - Meinhold v. U.S. Dept. of Defense (C.D. CA 1997) 123 F.3d 1275
- expert witness fees cannot be included as attorney fees or recovered as "necessary expense" under contract unless properly pled and proved
 - First Nationwide Bank v. Mountain Cascade Inc. (2000) 77 Cal.App.4th 871 [92 Cal.Rptr.2d 145]
- failure to award fees to plaintiff wrongfully denied access to the defendant association's meeting minutes constituted abuse of discretion
 - Moran v. Oso Valley Greenbelt Assn (2001) 92 Cal.App.4th 156 [111 Cal.Rptr.2d 636]
- family law court erred in accepting commissioner's findings as to attorney fees and costs where commissioner provided no notice to affected attorney and had recused himself for bias
 - In re Marriage of Kelso (1998) 67 Cal.App.4th 374 [79 Cal.Rptr.2d 39]
- family law court fee awards must be reasonable and based on factual showings
 - In re Marriage of Keech (1999) 75 Cal.App.4th 860 [89 Cal.Rptr.2d 525]
- fee award for appeal proper after paternity adjudication

FEES

- Sherry H. v. Thomas B. (1988) 203 Cal.App.3d 1500 [250 Cal.Rptr. 830]
- final judgment determining the prevailing party is a prerequisite for the district court to have jurisdiction to rule on a petition for fees
- Scanlon v. Sullivan (9th Cir. 1992) 974 F.2d 107
- final judgment for purposes of an order to pay attorney fees refers to a final determination made at trial
- Sherry H. v. Thomas B. (1988) 203 Cal.App.3d 1500 [250 Cal.Rptr. 830]
- for number of hours worked
- White v. City of Richmond (N.D. Cal. 1982) 559 F.Supp. 127, 131
- general right to
- In re Coast Trading Co., Inc. (9th Cir. 1984) 744 F.2d 686, 693
- Handicapped Children's Protection Act
- retroactive application of attorney's fees recovery permissible
- Abu-Sahyun v. Palo Alto Unified School District (9th Cir. 1988) 843 F.2d 1250
- if party prevails against the United States
- Lacy v. Lehman (S.D. Cal. 1983) 563 F.Supp. 111
- in anti-trust cases
- Sealy Inc. v. Easy Living, Inc. (9th Cir. 1984) 743 F.2d 1378
- award goes to successful plaintiff, not to plaintiff's counsel
- Image Technical Services v. Eastman Kodak Co. (9th Cir. 1998) 136 F.3d 1354
- in bankruptcy proceedings permitted unless court abused discretion or erroneously applied the law
- In re Intern. Environmental Dynamics, Inc. (9th Cir. 1983) 718 F.2d 322
- interest in post-petition attorney fees
- In re Riverside-Linden Investment Co. (9th Cir. BAP 1990) 111 B.R. 298
- in collective bargaining contract arbitration case preempted by federal law
- Warehouse, Processing, Distribution Workers Union Local 26 v. Hugo Neu Procter Company (1998) 65 Cal.App.4th 732 [76 Cal.Rptr.2d 814]
- inappropriate when opponent lacked notice
- Mayer v. Wedgewood Neighborhood Coalition (9th Cir. 1983) 707 F.2d 1020
- amended party must be given opportunity to respond and contest personal liability before judgment is entered against him
- Nelson v. Adams USA, Inc. (2000) 529 U.S. 460 [120 S.Ct. 1579]
- INS matter
- Commissioner, INS v. Jean (1990) 110 S.Ct. 2316
- inherent power of federal court to amend
- In re Levander (9th Cir. 1999) 180 F.3d 1114
- IRS matter
- Estate of Cartwright v. Commissioner of Internal Revenue (9th Cir. 1999) 183 F.3d 1034
- United States v. Blackman (9th Cir. 1995) 72 F.3d 1418
- Smith v. Brady (9th Cir. 1992) 972 F.2d 1095
- Huffman v. Commissioner of Internal Revenue (U.S. Tax Ct. 1992) 978 F.2d 1139
- Bertolini v. Commissioner Internal Revenue Service (9th Cir. 1991) 930 F.2d 759
- liability for, regardless who the recipient is
- Forker v. Board of Trustees (1984) 160 Cal.App.3d 13, 21-22 [206 Cal.Rptr. 303]
- limits on
- In re County of Orange (C.D. Cal. 1999) 241 B.R. 212 [4 Cal. Bankr. Ct. Rep. 117]
- Leslie Salt Co. v. St. Paul Mercury Ins. Co. (9th Cir. 1984) 637 F.2d 657, 662
- Thayer v. Wells Fargo Bank (2001) 92 Cal.App.4th 819, mod. at 93 Cal.App.4th 324A [112 Cal.Rptr.2d 284]
- Moore v. American United Life Ins. Co. (1984) 150 Cal.App.3d 610, 643-644 [197 Cal.Rptr. 878]
- "lodestar" multiplier method of fee calculation
- Fischel v. Equitable Life Assurance Society of the U.S. (9th Cir. 2002) 307 F.3d 997
- Wininger v. SI Management, L.P. (9th Cir. 2002) 301 F.3d 1115
- Beatty v. BET Holdings, Inc. (9th Cir. 2000) 222 F.3d 607
- Van Gerwin v. Guarantee Mutual Life Co. (9th Cir. 2000) 214 F.3d 1041
- In re County of Orange (C.D. Cal. 1999) 241 B.R. 212 [4 Cal. Bankr. Ct. Rep. 117]
- Ketchum v. Moses (2001) 24 Cal.4th 1122 [104 Cal.Rptr.2d 377]
- Thayer v. Wells Fargo Bank (2001) 92 Cal.App.4th 819, mod. at 93 Cal.App.4th 324A [112 Cal.Rptr.2d 284]
- court must articulate factors used to calculate award
- Ferland v. Conrad Credit Corp. (9th Cir. 2001) 244 F.3d 1145
- Ramos v. Countrywide Home Loans, Inc. (2000) 82 Cal.App.4th 615 [98 Cal.Rptr.2d 388]
- reduction in fees
- Van Gerwin v. Guarantee Mutual Life Co. (9th Cir. 2000) 214 F.3d 1041
- market rate prevailing in relevant community used to determine award of attorney's fees
- United Steelworkers of America v. Phelps Dodge Corp. (9th Cir. 1990) 896 F.2d 403
- corporate in-house counsel entitled to reasonable fees under Civil Code section 1717
- PLCM Group, Inc. v. Drexler (2000) 22 Cal.4th 1084 [95 Cal. Rptr.2d 198] as modified (June 2, 2000)
- may be imposed when the lawsuit is frivolous, unreasonable, or without foundation
- Laborde v. Aronson (2001) 92 Cal.App.4th 459 [112 Cal.Rptr.2d 119]
- Rosenman v. Christensen, Miller, Fink, Jacobs, Glaser, Weil & Shapiro (2001) 91 Cal.App.4th 859 [110 Cal.Rptr.2d 903]
- Linsley v. Twentieth Century Fox Films Corp. (1999) 75 Cal.App.4th 762 [89 Cal.Rptr.2d 429]
- may include fees for appellate and post-remand services
- court instructions not necessary
- Newhouse v. Roberts' Ilima Tours, Inc. (9th Cir. 1983) 708 F.2d 436, 441
- Med-pay
- Attorney Grievance Commission v. Kemp (1984) 496 A.2d 672
- municipal court
- court may award attorneys' fees in excess of \$25,000 jurisdictional amount
- Stokus v. Marsh (1990) 217 Cal.App.3d 647
- "more favorable judgement" test determines whether an appellant is "unsuccessful in the appeal"
- Smith v. Rae-Venter Law Group (2002) 29 Cal.4th 345 [127 Cal.Rptr.2d 516]
- must be reasonable
- Sealy Inc. v. Easy Living, Inc. (9th Cir. 1984) 743 F.2d 1378, 1385
- district court may review attorney's "billing judgment" and reduce fees if some tasks should have been delegated to associate or paralegal
- MacDougal v. Catalyst Nightclub (1999) 58 F.Supp.2d 1101
- fee awards in federal securities fraud actions must be reasonable in relation to plaintiffs' recovery
- Powers v. Eichen (9th Cir. 2000) 229 F.3d 1249
- mutuality of remedy when contract permits recovery of attorney fees
- Jones v. Drain (1983) 149 Cal.App.3d 484, 490
- needy spouse when other spouse is able to pay
- In re Marriage of Kerry (1984) 158 Cal.App.3d 456, 464 [204 Cal.Rptr. 660]
- negligence of plaintiff's attorney does not entitle defendant's attorney to award
- Sooy v. Peter (1990) 220 Cal.App.3d 1305 [270 Cal.Rptr. 151]

FEES

no recovery of attorney's fees unless they are specifically authorized by contract, statute, or law
California Department of Forestry & Fire Protection v. LeBrock (2002) 96 Cal.App.4th 1137 [117 Cal.Rptr.2d 790]

not imposed when plaintiff presents a colorable claim and adverse jury verdict is less than unanimous
Rosenman v. Christensen, Miller, Fink, Jacobs, Glaser, Weil & Shapiro (2001) 91 Cal.App.4th 859 [110 Cal.Rptr.2d 903]

not limited by terms of contingency fee contract
Clark & Bunker v. City of Los Angeles (9th Cir. 1986) 803 F.2d 987
Vella v. Hudgins (1984) 151 Cal.App.3d 515, 519 [198 Cal.Rptr. 725]

not recoverable beyond surety's penal sum
Lawrence Tractor Co., Inc. v. Carlisle Ins. Co. (1988) 202 Cal.App.3d 949 [249 Cal.Rptr. 150]

not recoverable unless they are specifically authorized by contract, statute, or law
California Department of Forestry & Fire Protection v. LeBrock (2002) 96 Cal.App.4th 1137 [117 Cal.Rptr.2d 790]

paid by surety
Lawrence Tractor Co., Inc. v. Carlisle Ins. Co. (1988) 202 Cal.App.3d 949 [249 Cal.Rptr. 150]

pension cases
Smith v. CMTA-IAM Pension Trust (9th Cir. 1984) 746 F.2d 587

periodic payment
 -attorney's fees not subject to
Orellana v. Mejia (1988) 203 Cal.App.3d 337 [249 Cal.Rptr. 828]

petition for relief from fee judgment permitted if underlying merits of judgment is reversed and party has paid adversary's attorney fees
California Medical Association v. Shalala (9th Cir. 2000) 207 F.3d 575

pleading and proof required
No Oil, Inc. v. City of Los Angeles (1984) 153 Cal.App.3d 998, 1005 [200 Cal.Rptr. 768]

plus cost
Smith v. CMTA-IAM Pension Trust (9th Cir. 1984) 746 F.2d 587

prevailing defendant in SLAPP action despite plaintiff's voluntary dismissal with prejudice
Kyle v. Carmon (1999) 71 Cal.App.4th 901 [84 Cal.Rptr.2d 303]

private attorney general doctrine
 -award improper where de minimus public benefit
Save Open Space Santa Monica Mountains v. Superior Court (County of Los Angeles) (2000) 84 Cal.App.4th 235 [100 Cal.Rptr.2d 725]
Mandicino v. Maggard (1989) 210 Cal.App.3d 1413 [258 Cal.Rptr. 917]

-calculation for
Slayton v. Pomona Unified School Dist. (1984) 161 Cal.App.3d 538, 552-553 [207 Cal.Rptr. 705]

-class action judgment against bank warrants award of attorneys' fees
Beasley v. Wells Fargo Bank, N.A. (1991) 235 Cal.App.3d 1383, opn. mod. 235 Cal.App.3d 1407

-criteria for award of fees
Save Open Space Santa Monica Mountains v. Superior Court (County of Los Angeles) (2000) 84 Cal.App.4th 235 [100 Cal.Rptr.2d 725]
Schmierv. Supreme Court (2000) 96 Cal.App.4th 873 [117 Cal.Rptr.2d 497]
California School Employees Association v. Del Norte Unified School District (1992) 2 Cal.App.4th 1396 [4 Cal.Rptr.2d 35]
Mandicino v. Maggard (1989) 210 Cal.App.3d 1413 [258 Cal.Rptr. 917]
Boccatto v. City of Hermosa Beach (1984) 158 Cal.App.3d 804 [204 Cal.Rptr. 727]
California Teachers Assn. v. Cory (1984) 155 Cal.App.3d 494, 515 [202 Cal.Rptr. 611]
Slayton v. Pomona Unified School District (1984) 161 Cal.App.3d 538 [207 Cal.Rptr. 705]

-discovery may be allowed by the trial court
Save Open Space Santa Monica Mountains v. Superior Court (County of Los Angeles) (2000) 84 Cal.App.4th 235 [100 Cal.Rptr.2d 725]

-effect of Budget Act on
Green v. Obledo (1984) 161 Cal.App.3d 678 [207 Cal.Rptr. 830]

-fees
Schwartz v. City of Rosemead (1984) 155 Cal.App.3d 547 [202 Cal.Rptr. 400]

-jurisdiction of trial court is retained to award costs and fees despite filing of compromise agreement by the parties
Folsom v. Butte County Association of Governments (1982) 20 Cal.3d 668 [186 Cal.Rptr. 589, 652 P.2d 437]

-no important right is vindicated
California School Employees Association v. Del Norte Unified School District (1992) 2 Cal. App.4th 1396

-standard for
Slayton v. Pomona Unified School District (1984) 161 Cal.App.3d 538 [207 Cal.Rptr. 705]
Boccatto v. City of Hermosa Beach (1984) 158 Cal.App.3d 804 [204 Cal.Rptr. 727]

-Supreme Court's exclusive discretion to fashion equitable awards of attorney fees
Ketchum v. Moses (2001) 24 Cal.4th 1122 [104 Cal.Rptr.2d 377]
Serrano v. Priest (1977) 20 Cal.3d 24 [141 Cal.Rptr. 315, 569 P.2d 1303]
Greene v. Dillingham Construction, N.A., Inc. (2002) 101 Cal.App.4th 418 [124 Cal.Rptr.2d 250]

-test
Slayton v. Pomona Unified School Dist. (1984) 161 Cal.App.3d 538 [207 Cal.Rptr. 705]

--burden to plaintiffs compared with personal cost
California Teachers Assn. v. Cory (1984) 155 Cal.App.3d 494, 515 [202 Cal.Rptr. 611]

pro bono fee arrangement did not preclude award of fees under C.C.P. § 425.16
Rosenauro v. Scherer (2001) 88 Cal.App.4th 260 [105 Cal.Rptr.2d 674]

pro bono organization is entitled to an award of fees in child support cases
In re Marriage of Ward (1992) 3 Cal. App.4th 618 [4 Cal.Rptr.2d 365]

pro se attorney litigant with an assisting counsel
Mix v. Tumanjan Development Corp. (2002) 102 Cal.App.4th 1318 [126 Cal.Rptr.2d 267]

probate matters
 -discharged attorney not entitled to recover the reasonable value of services rendered up to discharge where probate court approval of fees was required, but not obtained
In the Matter of Phillips (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 315

-fees denied where a trustee voluntarily becomes a party to a contest between the beneficiaries over who should control and benefit from the trust
Whittlesey v. Aiello (2002) 104 Cal.App.4th 1221 [128 Cal.Rptr.2d 742]

-includes work reasonably performed by attorney to establish and defend own fee claim
Estate of Trynin (1989) 49 Cal.3d 868

probation
 -trial court may not require reimbursement for attorneys' fees as a condition of probation
People v. Faatila (1992) 10 Cal.App. 4th 1276 [13 Cal.Rptr.2d 190]

proper despite party's failure to file noticed motion
California Recreation Industries v. Kierstead (1988) 199 Cal.App.3d 203 [244 Cal.Rptr. 632]

purpose of statute
Brennan v. Board of Supervisors (1984) 153 Cal.App.3d 193

reasonableness of
Martino v. Denevi (1986) 182 Cal.App.3d 553, 558-559 [227 Cal.Rptr. 354]
Glendora Community Redevelopment Agency v. Demeter (1984) 155 Cal.App.3d 465 [202 Cal.Rptr. 389]

- corporate in-house counsel entitled to reasonable fees under Civil Code section 1717
 - PLCM Group, Inc. v. Drexler (2000) 22 Cal.4th 1084 [95 Cal. Rptr.2d 198] as modified (June 2, 2000)
- district court may review attorney's "billing judgment" and reduce fees if some tasks should have been delegated to associate or paralegal
 - MacDougal v. Catalyst Nightclub (1999) 58 F.Supp.2d 1101
- fee awards in federal securities fraud actions must be reasonable in relation to plaintiffs' recovery
 - Powers v. Eichen (9th Cir. 2000) 229 F.3d 1249
- under 42 U.S.C. § 406(b) (social security benefits)
 - Gisbrecht v. Barnhart (2002) 535 U.S. 789 [122 S.Ct. 1817; 152 L.Ed.2d 996]
- rebate portion to client
 - LA 447 (1987)
- recovery of costs and fees under a sister state judgment not prohibited under California law
 - Aspen International Capital Corporation v. Marsch (1991) 235 Cal.App.3d 1199
- reviewable on appeal
 - Hadley v. Krepel (1985) 167 Cal.App.3d 677 [214 Cal.Rptr. 461]
 - Catello v. I.T.T. General Controls (1984) 152 Cal.App.3d 1009, 1012
 - Mackinder v. OSCA Development Co. (1984) 151 Cal.App.3d 728, 738-739
- arbitration award may be modified where arbitrator inadvertently failed to rule on prevailing party's claim to attorney's fees and costs
 - Century City Medical Plaza v. Sperling, Issacs & Eisenberg (2000) 86 Cal.App.4th 865 [103 Cal.Rptr.2d 605]
- arbitrator's denial of attorney's fees was not subject to judicial review where issue of fees was within scope of matters submitted for binding arbitration
 - Moshonov v. Walsh (2000) 22 Cal.4th 771 [94 Cal.Rptr.2d 597]
 - Moore v. First Bank of San Luis Obispo (2000) 22 Cal.4th 782 [94 Cal.Rptr.2d 603]
- arbitrator's determination of prevailing party is not subject to appellate review
 - Pierotti, et al. v. Torian (2000) 81 Cal.App.4th 17 [96 Cal.Rptr.2d 553]
- authority of arbitrator to amend or correct a final award
 - Delaney v. Dahl (2002) 99 Cal.App.4th 647 [121 Cal.Rptr.2d 663]
- risk factor analysis
 - Fischel v. Equitable Life Assurance Society of the U.S. (9th Cir. 2002) 307 F.3d 997
- risk should be assessed when an attorney determines that there is merit to claim, likely before lawsuit is filed
 - Fischel v. Equitable Life Assurance Society of the U.S. (9th Cir. 2002) 307 F.3d 997
- sanctions for delay
 - Thompson v. Tega-Rand Intern. (9th Cir. 1984) 740 F.2d 762, 764
 - Pierotti, et al. v. Torian (2000) 81 Cal.App.4th 17 [96 Cal.Rptr.2d 553]
- settlement agreement
 - Oliver v. Bradshaw (1999) 68 Cal.App.4th 1515
- agreement providing that trial court will determine prevailing party and award of attorney fees is valid and enforceable
 - Jackson v. Homeowners Association Monte Vista Estates-East (2001) 93 Cal.App.4th 773 [113 Cal.Rptr.2d 363]
- CCP § 998 offer invalid if settlement is conditioned on confidentiality
 - Barella v. Exchange Bank (2001) 84 Cal.App.4th 793 [101 Cal.Rptr.2d 167]
- SLAPP action
 - despite plaintiff's voluntary dismissal with prejudice
 - Kyle v. Carmon (1999) 71 Cal.App.4th 901 [84 Cal.Rptr.2d 303]
- social security
 - determination of "reasonable fee" to attorney out of prevailing claimant's recovery
 - Gisbrecht v. Barnhart (2002) 535 U.S. 789 [122 S.Ct. 1817; 152 L.Ed.2d 996]
 - fees awarded in successful social security claims reversed and affirmed for various reasons
 - Straw v. Bowen (9th Cir. 1989) 866 F.2d 1167
 - special hearing required under FOIA
 - Church of Scientology v. U.S. Postal Service (9th Cir. 1983) 700 F.2d 486, 494
 - spousal support, subsequent proceedings
 - Civil Code section 4370
 - In re Marriage of Joseph (1989) 215 Cal.App.3d 416
 - Paduano v. Paduano (1989) 215 Cal.App.3d 346
 - statutory authority for
 - Forker v. Board of Trustees (1984) 160 Cal.App.3d 13, 20-21 [206 Cal.Rptr. 303]
 - statutory basis for
 - Jacobson v. Delta Airlines, Inc. (9th Cir. 1984) 742 F.2d 1202
 - Timms v. United States (9th Cir. 1984) 742 F.2d 489
 - Lolley v. Campbell (2002) 28 Cal.4th 367 [121 Cal.Rptr.2d 571]
 - Smith v. Rae-Venter Law Group (2002) 29 Cal.4th 345 [127 Cal.Rptr.2d 516]
 - People v. Fulton (2002) 99 Cal.App.4th 1292 [121 Cal.Rptr.2d 828]
 - Andre v. City of West Sacramento (2001) 92 Cal.App.4th 532 [111 Cal.Rptr.2d 891]
 - SLAPP action
 - Ketchum v. Moses (2001) 24 Cal.4th 1122 [104 Cal.Rptr.2d 377]
 - Dowling v. Zimmerman (2001) 85 Cal.App.4th 1400 [103 Cal.Rptr.2d 174]
 - Kyle v. Carmon (1999) 71 Cal.App.4th 901 [84 Cal.Rptr.2d 303]
 - standing to assert
 - Willard & Mitchell v. City of Los Angeles (9th Cir. 1986) 803 F.2d 526
 - statutory limit
 - in excess of
 - Andre v. City of West Sacramento (2001) 92 Cal.App.4th 532 [111 Cal.Rptr.2d 891]
 - Estate of Gilkison (1998) 65 Cal.App.4th 1443 [77 Cal.Rptr.2d 463]
 - reasonably necessary
 - Andre v. City of West Sacramento (2001) 92 Cal.App.4th 532 [111 Cal.Rptr.2d 891]
 - under 42 U.S.C. § 406(b) (social security benefits)
 - courts should review the contract to ensure that its fee provisions do not exceed the limit
 - Gisbrecht v. Barnhart (2002) 535 U.S. 789 [122 S.Ct. 1817; 152 L.Ed.2d 996]
 - statutory threshold required to establish eligibility for fees
 - McFadden v. Villa (2001) 93 Cal.App.4th 235 [113 Cal.Rptr.2d 80]
 - Filipino Accountants Assn. v. State Board of Accountancy (1984) 155 Cal.App.3d 1023 [204 Cal.Rptr. 913]
 - statutory to prevailing party
 - Labotest, Inc. v. Bonta (9th Cir. 2002) 297 F.3d 892
 - Oregon Natural Resources Council v. Madigan (1992) 980 F.2d 1330
 - Kaplan v. Fairway Oaks Homeowners Ass'n (2002) 98 Cal.App.4th 715 [120 Cal.Rptr.2d 158]
 - Braun v. City of Taft (1984) 154 Cal.App.3d 332, 348-349 [201 Cal.Rptr. 654]
 - stipulations and settlements are controlling
 - Mitchell v. City of Los Angeles (9th Cir. 1984) 741 F.2d 281, 283
 - subtraction of hours for discovery was not abuse of discretion
 - Van Gerwin v. Guarantee Mutual Life Co. (9th Cir. 2000) 214 F.3d 1041
 - temporary order to award
 - Civil Code section 4370

third-party actions

- entitled to attorney fees based on workman's compensation lien amount

Raisola v. Flower Street, Ltd. (1988) 205 Cal.App.3d 1004

third-party claimant who was not intended beneficiary of attorney fee clause in contract denied award

Sessions Payroll Management, Inc. v. Noble Construction (2000) 84 Cal.App.4th 671 [101 Cal.Rptr.2d 127]

third-party tortfeasor doctrine

Vacco Industries, Inc. v. Van Den Berg (1992) 5 Cal.App.4th 34 [6 Cal.Rptr.2d 602]

to prevailing party

- absent agreement, fees awarded pursuant to California FEHA belong to attorneys who labored on case and not to client

Flannery v. Prentice (2001) 26 Cal.4th 572 [110 Cal.Rptr.2d 809, 28 P.3d 860]

- action dismissed but fees awarded under contractual provision

Elms v. Builders Disbursements Inc. (1991) 232 Cal.App.3d 671 [283 Cal.Rptr. 515]

- action for negligent performance of contractual duties

Perry v. Robertson (1988) 201 Cal.App.3d 333 [247 Cal.Rptr. 74]

- action on contract

Mix v. Tumanjan Development Corp. (2002) 102 Cal.App.4th 1318 [126 Cal.Rptr.2d 267]

Bussey v. Affleck (1990) 225 Cal.App.3d 1162 [275 Cal.Rptr. 646]

Valley Bible Center v. Western Title Ins. Co. (1983) 138 Cal.App.3d 931, 933 [188 Cal.Rptr. 335]

- ADEA matter

Sinyard v. Commissioner of Internal Revenue (9th Cir. 2001) 268 F.3d 756

- apportionment not required if successful and unsuccessful claims are interrelated

Akins v. Enterprise Rent-A-Car of San Francisco (2000) 79 Cal.App.4th 1127 [94 Cal.Rptr.2d 448]

- arbitration cases

- arbitration award may be modified where arbitrator inadvertently failed to rule on prevailing party's claim to attorney's fees and costs

Century City Medical Plaza v. Sperling, Issacs & Eisenberg (2000) 86 Cal.App.4th 865 [103 Cal.Rptr.2d 605]

- arbitrator's denial of attorney's fees was not subject to judicial review where issue of fees was within scope of matters submitted for binding arbitration

Harris v. Sandro (2002) 96 Cal.App.4th 1310 [117 Cal.Rptr.2d 910]

Moshonov v. Walsh (2000) 22 Cal.4th 771 [94 Cal.Rptr.2d 597]

Moore v. First Bank of San Luis Obispo (2000) 22 Cal.4th 782 [94 Cal.Rptr.2d 603]

- arbitrator's determination of prevailing party is not subject to appellate review

Pierotti, et al. v. Torian (2000) 81 Cal.App.4th 17 [96 Cal.Rptr.2d 553]

- attorney fees may be awarded to attorneys who represent each other in fee dispute with client that attorneys jointly represented

Farmers Insurance Exchange v. Law Offices of Conrado Joe Sayas, Jr. (9th Cir. 2001) 250 F.3d 1234

- attorney represented by other members of his law firm is entitled to recover attorney fees where the representation involved the attorney's personal interests and not those of the firm

Gilbert v. Master Washer & Stamping Co., Inc. (2000) 87 Cal.App.4th 212 [104 Cal.Rptr.2d 461]

- attorney who acted per se in contract action may recover reasonable attorney fees for legal services of assisting counsel

Mix v. Tumanjan Development Corp. (2002) 102 Cal.App.4th 1318 [126 Cal.Rptr.2d 267]

- bond not required to stay award pending an appeal

More Direct Response v. Callahan (1992) 10 Cal.App.4th 140 [12 Cal.Rptr. 573]

- California Public Records Act

Los Angeles Times v. Alameda Corridor Transportation Authority (2001) 88 Cal.App.4th 1381 [107 Cal.Rptr.2d 29]

Fontana Police Dept. v. Villegas-Banuelos (1999) 74 Cal.App.4th 1249 [88 Cal.Rptr.2d 641]

- class actions

- absent class members not liable for employer's attorney's fees in overtime dispute

Earley v. Superior Court (2000) 79 Cal.App.4th 1420 [95 Cal.Rptr.2d 57]

- attorney's fees for securities class action suits should be based on individual case risk

In re Quantum Health Resources, Inc. (C.D. Cal. 1997) 962 F.Supp. 1254

- attorney's fees should be adequate to promote

Feuerstein v. Burns (S.D. Cal. 1983) 569 F.Supp. 271

- district court presiding over settlement fund had equitable power to award attorneys fees for work outside litigation immediately before court where that work helped create settlement fund

Wininger v. SI Management, L.P. (9th Cir. 2002) 301 F.3d 1115

- Clean Water Act matter

Morris-Smith v. Moulton Niguel Water District (2000) 44 F.Supp.2d 1084

- constitutional right to free exercise of religion at issue

Friend v. Kolodziejczak (9th Cir. 1992) 965 F.2d 682

- construction contract fee provision not applicable to breach of limited partnership agreement

Pilcher v. Wheeler (1992) 2 Cal.App.4th 352

- contrary provision in lease contract

Beverly Hills Properties v. Marcolino (1990) 221 Cal.App.3d Supp. 7 [270 Cal.Rptr. 605]

- corporate in-house counsel entitled to reasonable fees under Civil Code section 1717

PLCM Group, Inc. v. Drexler (2000) 22 Cal.4th 1084 [95 Cal. Rptr.2d 198] as modified (June 2, 2000)

- defendant prevails in Title VII action brought by EEOC

Equal Employment Opportunity Commission v. Bruno's Restaurant (9th Cir. 1992) 976 F.2d 521

- defendants entitled to attorney's fees even though plaintiffs dismissed appeal

Wilkerson v. Sullivan (2002) 99 Cal.App.4th 443 [121 Cal.Rptr.2d 275]

- defendant in SLAPP action despite plaintiff's voluntary dismissal with prejudice

Kyle v. Carmon (1999) 71 Cal.App.4th 901 [84 Cal.Rptr.2d 303]

- district court may review attorney's "billing judgment" and reduce fees if some tasks should have been delegated to associate or paralegal

MacDougal v. Catalyst Nightclub (1999) 58 F.Supp.2d 1101

- employer entitled to attorney's fees from employee suing for employment discrimination where employee initiated litigation following signing of general release of all claims

Linsley v. Twentieth Century Fox Films Corp. (1999) 75 Cal.App.4th 762 [89 Cal.Rptr.2d 429]

- environmental groups are not "prevailing parties" since they do not prevail against EPA

Idaho Conservation League, Inc. v. Russell (9th Cir. 1991) 946 F.2d 717

- ERISA matter

- under 29 U.S.C. 1123(g)(1)

McElwaine v. US West, Inc. (9th Cir. AZ 1999) 176 F.3d 1167

Cann v. Carpenters' Pension Trust Fund for Northern California (1993) 989 F.2d 313

Bogue v. Ampex Corporation (9th Cir. 1992) 976 F.2d 1319

- Downey Community Hospital v. Wilson (9th Cir. 1992) 977 F.2d 470
- fee provision in security agreement did not serve as ground for awarding fees and costs to oversecured creditor following its successful defense of adversary preference proceeding
 - In re Connolly (9th Cir. BAP 1999) 238 B.R. 475 [34 Bankr.Ct.Dec. 1219]
 - fee awards in federal securities fraud actions must be reasonable in relation to plaintiffs' recovery
 - Powers v. Eichen (9th Cir. 2000) 229 F.3d 1249
 - FEHA matter
 - Beaty v. BET Holdings, Inc. (9th Cir. 2000) 222 F.3d 607
 - Flannery v. Prentice (2001) 26 Cal.4th 572 [110 Cal.Rptr.2d 809, 28 P.3d 860]
 - Rosenman v. Christensen, Miller, Fink, Jacobs, Glaser, Weil & Shapiro (2001) 91 Cal.App.4th 859 [110 Cal.Rptr.2d 903]
 - Vo v. Las Virgenes Municipal Water District (2000) 79 Cal.App.4th 440 [94 Cal.Rptr.2d 143]
 - Hon v. Marshall (1997) 53 Cal.App.4th 470 [62 Cal.Rptr.2d 11]
 - Cummings v. Benco Building Services (1992) 11 Cal.App.4th 1383 [15 Cal.Rptr.2d 53]
 - Government Code section 970 et seq.
 - property owner is entitled to attorney's fees as prevailing party in action to enforce inverse condemnation judgment against city
 - Andre v. City of West Sacramento (2001) 92 Cal.App.4th 532 [111 Cal.Rptr.2d 891]
 - Downen's, Inc. et al. v. City of Hawaiian Gardens Redevelopment Agency (2001) 86 Cal.App.4th 856 [103 Cal.Rptr.2d 644]
 - Government Code section 6250
 - Fontana Police Dept. v. Villegas-Banuelos (1999) 74 Cal.App.4th 1249 [88 Cal.Rptr.2d 641]
 - Government Code section 6259(c)
 - Los Angeles Times v. Alameda Corridor Transportation Authority (2001) 88 Cal.App.4th 1381 [107 Cal.Rptr.2d 29]
 - Government Code section 6259(d)
 - Belth v. Garamendi (1991) 232 Cal.App.3d 896 [283 Cal.Rptr. 829]
 - Government Code section 12965(b)
 - Beaty v. BET Holdings, Inc. (9th Cir. 2000) 222 F.3d 607
 - Linsley v. Twentieth Century Fox Films Corp. (1999) 75 Cal.App.4th 762 [89 Cal.Rptr.2d 429]
 - Handicapped Children's Protection Act
 - Barlow/Gresham Union High School District v. Mitchell (9th Cir. 1991) 940 F.2d 1280
 - hours that are not properly billed to one's client are also not properly billed to one's adversary pursuant to statutory authority
 - MacDougal v. Catalyst Nightclub (1999) 58 F.Supp.2d 1101
 - IDEA (Individuals with Disabilities Education Act) matter
 - Z. A. v. San Bruno Park School District (9th Cir. 1999) 165 F.3d 1273
 - Labor Code § 98.2
 - former employee's attorneys entitled to attorney's fees even if they represent party without charge
 - Lolley v. Campbell (2002) 28 Cal.4th 367 [121 Cal.Rptr.2d 571]
 - "more favorable judgement" test determines whether an appellant is "unsuccessful in the appeal"
 - Smith v. Rae-Venter Law Group (2002) 29 Cal.4th 345 [127 Cal.Rptr.2d 516]
 - law providing for fees and cost to prevailing plaintiff applies to either party
 - Fontana Police Dept. v. Villegas-Banuelos (1999) 74 Cal.App.4th 1249 [88 Cal.Rptr.2d 641]
 - legal malpractice matter
 - Loube v. Loube (1998) 64 Cal.App.4th 421 [74 Cal.Rptr.2d 906]
 - lis pendens action
 - Doyle v. Superior Court (1991) 226 Cal.App.3d 1355
 - multiple prevailing parties
 - Hunt v. Fahnestock (1990) 220 Cal.App.3d 628 [269 Cal.Rptr. 614]
 - notice of appeal may subsume later order setting the amounts of the award
 - Grant v. List & Lathrop (1992) 2 Cal.App.4th 993
 - partial pro bono fee arrangement did not preclude award of fees under C.C.P. § 425.16
 - Rosenaur v. Scherer (2001) 88 Cal.App.4th 260 [105 Cal.Rptr.2d 674]
 - partially prevailing defendant not entitled following voluntary dismissal of entire action
 - Rosen v. Robert P. Warmington Co. (1988) 201 Cal.App.3d 939
 - petition for relief from fee judgment permitted if underlying merits of judgment is reversed and party has paid adversary's attorney fees
 - California Medical Association v. Shalala (9th Cir. 2000) 207 F.3d 575
 - pleadings
 - Manier v. Anaheim Business Center Co. (1984) 161 Cal.App.3d 503, 508 [207 Cal.Rptr. 508]
 - prevailing party status irrelevant when defendant was not a party to the underlying contract
 - Topanga and Victory Partners v. Toghia (2002) 103 Cal.App.4th 775 [127 Cal.Rptr.2d 104]
 - proper to award attorney fees to defendant attorney even though he was representing himself
 - Laborde v. Aronson (2001) 92 Cal.App.4th 459 [112 Cal.Rptr.2d 119]
 - property owner is entitled to attorney's fees as prevailing party in action to enforce inverse condemnation judgment against city
 - Andre v. City of West Sacramento (2001) 92 Cal.App.4th 532 [111 Cal.Rptr.2d 891]
 - Downen's, Inc. et al. v. City of Hawaiian Gardens Redevelopment Agency (2001) 86 Cal.App.4th 856 [103 Cal.Rptr.2d 644]
 - real estate purchase agreement
 - Pacific Preferred Properties v. Moss (1999) 71 Cal.App.4th 1456 [84 Cal.Rptr.2d 500]
 - Jue v. Patton (1995) 33 Cal.App.4th 456 [39 Cal.Rptr.2d 364]
 - Xuereb v. Marcus & Millichap, Inc. (1992) 3 Cal.App.4th 1338
 - settlement agreement
 - Oliver v. Bradshaw (1999) 68 Cal.App.4th 1515
 - standard for awarding attorney's fees under Endangered Species Act
 - Carson-Truckee Water Conservancy District v. Secretary of the Interior (9th Cir. 1984) 748 F.2d 523, 525-526
 - standard for awarding attorney's fees under Equal Access to Justice Act
 - U.S. v. Marolf (9th Cir. 2002) 277 F.3d 1156
 - U.S. v. Real Property at 2659 Roundhill Drive, Alamo, California (9th Cir. 2002) 283 F.3d 1146
 - U.S. v. One 1997 Toyota Land Cruiser (9th Cir. 2001) 248 F.3d 899
 - Beach v. Smith (9th Cir. 1984) 743 F.2d 1303, 1306-1307
 - McQuiston v. Marsh (9th Cir. 1983) 707 F.2d 1082, 1085
 - summary judgment on complaint not appealable final judgment
 - Day v. Papadakis (1991) 231 Cal.App.3d 503 [282 Cal.Rptr. 548]
 - under Civil Code section 798.85
 - Del Cerro Mobile Estates v. Proffer (2001) 87 Cal.App.4th 943 [105 Cal.Rptr.2d 5]
 - under Civil Code section 1717
 - First Security Bank of California, N.A. v. Paquet (2002) 98 Cal.App.4th 468 [119 Cal.Rptr.2d 787]
 - under Civil Code section 1942.4
 - Galan v. Wolfriver Holding Corporation (2000) 80 Cal.App.4th 1124 [96 Cal.Rptr.2d 112]

- under Penal Code § 1202.4(f)(3), victim of convicted drunk driver was entitled to restitution for attorney services incurred to recover both economic and noneconomic damages
People v. Fulton (2002) 99 Cal.App.4th 1292 [121 Cal.Rptr.2d 828]
- under 18 U.S.C. § 3006(A)
U.S. v. Campbell (9th Cir. 2002) 291 F.3d 1169
- unsuccessful plaintiff
McLarand, Vasquez & Partners v. Downey Savings & Loan Assoc. (1991) 231 Cal.App.3d 1450 [282 Cal.Rptr. 828]
- to VA patient not proper where government's position is substantially justified
Foster v. Tourtellotte (9th Cir. 1983) 704 F.2d 1109
- under Civil Code section 1717
In re Baroff (9th Cir. 1997) 105 F.Supp. 439
Bankruptcy of Job (9th Cir. 1996) 198 B.R. 768
Scott Co. of California v. Blount Co. (1999) 20 Cal.4th 1103 [86 Cal.Rptr.2d 614]
Trope v. Katz (1995) 11 Cal.4th 274 [45 Cal.Rptr.2d 241]
Argaman v. Ratan (1999) 73 Cal.App.4th 1173 [86 Cal.Rptr.2d 917]
Oliver v. Bradshaw (1999) 68 Cal.App.4th 1515
Excess Electronixx v. Heger Realty Corp. (1998) 64 Cal.App.4th 698 [75 Cal.Rptr.2d 376]
Loube v. Loube (1998) 64 Cal.App.4th 421 [74 Cal.Rptr.2d 906]
In re Marriage of Adams (1997) 52 Cal.App.4th 911 [60 Cal.Rptr.2d 811]
Snyder v. Marcus & Millichap (1996) 46 Cal.App.4th 1099 [54 Cal.Rptr.2d 268]
Republic Bank v. Marine National Bank (1996) 45 Cal.App.4th 919 [53 Cal.Rptr.2d 90]
Honey Baked Hams, Inc. v. E. Robert Dickens (1995) 37 Cal.App.4th 421 [43 Cal.Rptr.2d 595]
Hsu v. Abbata (1995) 9 Cal.4th 863 [39 Cal.Rptr.2d 824]
Peter L. Adam v. Linda C. Powers (1995) 31 Cal.App.4th 708 [37 Cal.Rptr.2d 195]
Moallem v. Coldwell Banker Commercial Group (1994) 25 Cal.App.4th 1827 [31 Cal.Rptr.2d 253]
Hambrose Reserve, Ltd. v. Faltz (1992) 9 Cal.App.4th 129
Manierv. Anaheim Business Center Co. (1984) 61 Cal.App.3d 503
- under California Public Records Act
Los Angeles Times v. Alameda Corridor Transportation Authority (2001) 88 Cal.App.4th 1381 [107 Cal.Rptr.2d 29]
Fontana Police Dept. v. Villegas-Banuelos (1999) 74 Cal.App.4th 1249 [88 Cal.Rptr.2d 641]
- under Civil Code section 1717
First Security Bank of California, N.A. v. Paquet (2002) 98 Cal.App.4th 468 [119 Cal.Rptr.2d 787]
Del Cerro Mobile Estates v. Proffer (2001) 87 Cal.App.4th 943 [105 Cal.Rptr.2d 5]
-agreement providing that trial court will determine prevailing party and award of attorney fees is valid and enforceable
Jackson v. Homeowners Association Monte Vista Estates-East (2001) 93 Cal.App.4th 773 [113 Cal.Rptr.2d 363]
-attorney fees may be awarded to attorneys who represent each other in fee dispute with client that attorneys jointly represented
Farmers Insurance Exchange v. Law Offices of Conrado Joe Sayas, Jr. (9th Cir. 2001) 250 F.3d 1234
-attorney represented by other members of his law firm is entitled to recover attorney fees where the representation involved the attorney's personal interests and not those of the firm
Gilbert v. Master Washer & Stamping Co., Inc. (2000) 87 Cal.App.4th 212 [104 Cal.Rptr.2d 461]
-attorney who acted pro se in contract action may recover reasonable attorneys fees for legal services of assisting counsel
Mix v. Tumanjan Development Corp. (2002) 102 Cal.App.4th 1318 [126 Cal.Rptr.2d 267]
-corporate in-house counsel entitled to reasonable fees
PLCM Group, Inc. v. Drexler (2000) 22 Cal.4th 1084 [95 Cal. Rptr.2d 198] as modified (June 2, 2000)
- under Civil Code section 1794
Nightingale v. Hyundai Motor America (1994) 31 Cal.App.4th 99 [37 Cal.Rptr.2d 149]
- under Civil Code section 1798.48(b)
application of lodestar methodology by court in determining "reasonable attorney's fees"
Meister v. Regents of the University of California (1998) 67 Cal.App.4th 437 [78 Cal.Rptr. 913]
- under Civil Code section 2981 (Rees-Levering Act)
award not barred by CCP § 1717
Damian v. Tamondong (1998) 65 Cal.App.4th 1115 [77 Cal.Rptr.2d 262]
- under civil rights statute
-denial of fees based on special circumstances under traditional prevailing party analysis
San Francisco N.A.A.C.P. v. San Francisco Unified School District (9th Cir. 2002) 284 F.3d 1163
- lodestar calculation
Beatty v. BET Holdings, Inc. (9th Cir. 2000) 222 F.3d 607
Davis v. City & County of San Francisco (9th Cir. 1992) 976 F.2d 1536
Vo v. Las Virgenes Municipal Water District (2000) 79 Cal.App.4th 440 [94 Cal.Rptr.2d 143]
Meister v. Regents of the University of California (1998) 67 Cal.App.4th 437 [78 Cal.Rptr. 913]
- mere fact defendant prevails does not automatically result in award of fees
Coverdell v. Dept. of Social & Health Services (9th Cir. 1987) 834 F.2d 758, 770
--court's discretion – test
United Steelworkers of America v. Phelps Dodge Corp. (9th Cir. 1990) 896 F.2d 403
Sherman v. Babbitt (9th Cir. 1985) 772 F.2d 1476, 1478
- nominal damages received by plaintiff
Farrar v. Hobby (1992) 506 U.S. 103 [113 S.Ct. 566]
Choate v. County of Orange (2001) 86 Cal.App.4th 312 [103 Cal.Rptr.2d 339]
- partial success of prevailing attorneys may reduce amount of fee awarded
Sokolow v. County of San Mateo (1989) 213 Cal.App.3d 231 [261 Cal.Rptr. 520]
- waiver or limitation of attorney fees in section 1983 case must be clear and unambiguous
Erdman v. Cochise County (9th Cir. 1991) 926 F.2d 877
- under civil rights statute appropriate only when action was frivolous, unreasonable, or without foundation
-attorney's fees denied where opposing party's claims were not frivolous, unreasonable, or without foundation
Hensley v. Eckerhart (1983) 461 U.S. 424, 429 fn. 2
Benigni v. City of Hemet (9th Cir. 1988) 853 F.2d 1519
Boatowners and Tenants Ass'n, Inc. v. Port of Seattle (9th Cir. 1983) 716 F.2d 669, 674
Parks v. Watson (9th Cir. 1983) 716 F.2d 646, 665
- party awarded attorney's fees to be paid by opposing counsel as sanction for filing frivolous brief
Hamblen v. County of Los Angeles (9th Cir. 1986) 803 F.2d 462, 465
- under Clayton Act § 4
Image Technical Services v. Eastman Kodak Co. (9th Cir. 1998) 136 F.3d 1354
- under Code of Civil Procedure section 425.16
Ketchum v. Moses (2001) 24 Cal.4th 1122 [104 Cal.Rptr.2d 377]
Rosenaur v. Scherer (2001) 88 Cal.App.4th 260 [105 Cal.Rptr.2d 674]
-defendants entitled to attorney's fees even though plaintiffs dismissed appeal
Wilkerson v. Sullivan (2002) 99 Cal.App.4th 443 [121 Cal.Rptr.2d 275]
- under Code of Civil Procedure section 916
-former attorneys enjoined from prosecuting suit for fees against litigants while judgment was pending on appeal
Franklin & Franklin v. 7-Eleven Owners for Fair Franchising (2000) 85 Cal.App.4th 1168 [102 Cal.Rptr.2d 770]

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under Code of Civil Procedure section 998

Scott Co. of California v. Blount Co. (1999) 20 Cal.4th 1103 [86 Cal.Rptr.2d 614]

Carver v. Chevron U.S.A., Inc. (2002) 97 Cal.App.4th 132 [118 Cal.Rptr.2d 569]

entitled to award of attorney's fees where sum of jury damage award and defendant's post-settlement offer exceed defendant's pre-trial settlement offer

Mesa Forest Products Inc. v. St. Paul Mercury Insurance Co. (1999) 73 Cal.App.4th 324 [86 Cal.Rptr.2d 398]

plaintiff not liable for paying defendant's costs in defamation suit if defendant's offer of settlement is conditioned on confidentiality

Barella v. Exchange Bank (2001) 84 Cal.App.4th 793 [101 Cal.Rptr.2d 167]

settlement offer silent as to right to recover fees and costs does not constitute a waiver of that right

Ritzenthaler v. Fireside Thrift (2001) 93 Cal.App.4th 986 [113 Cal.Rptr.2d 579]

under Code of Civil Procedure section 1021.5

Rosenman v. Christensen, Miller, Fink, Jacobs, Glaser, Weil & Shapiro (2001) 91 Cal.App.4th 859 [110 Cal.Rptr.2d 903]

Families Unafraid to Uphold Rural El Dorado County v. El Dorado County Board of Supervisors (2000) 79 Cal.App.4th 505 [94 Cal.Rptr.2d 205]

Hull v. Rossi (1993) 13 Cal.App.4th 1763 [17 Cal.Rptr.2d 457]

Lerner v. Ward (1993) 13 Cal.App.4th 155 [16 Cal.Rptr.2d 486]

Planned Parenthood v. Aakhus (1993) 12 Cal.App.4th 1119

Cummings v. Benco (1992) 11 Cal.App. 4th 1383 [15 Cal.Rptr.2d 53]

Cabrera v. Martin (9th Cir. 1992) 973 F.2d 735

California Labor Federation AFL-CIO v. California Occupational Safety and Health Standards Board (1992) 221 Cal.App.3d 1547

under Code of Civil Procedure section 1021.7

-no award of fees based on plaintiffs' pursuit of a legitimate appeal

Thompson v. City of Capitola (1991) 233 Cal.App.3d 465

under Code of Civil Procedure section 1036

-property owner is entitled to attorney's fees as prevailing party in action to enforce inverse condemnation judgment against city

Andre v. City of West Sacramento (2001) 92 Cal.App.4th 532 [111 Cal.Rptr.2d 891]

Downen's, Inc., et al. v. City of Hawaiian Gardens Redevelopment Agency (2001) 86 Cal.App.4th 856 [103 Cal.Rptr.2d 644]

under Code of Civil Procedure section 2030

attorney fees may not be awarded to prevailing attorney acting in pro per

Kravitz v. Superior Court (Milner) (2001) 91 Cal.App.4th 1015 [111 Cal.Rptr.2d 385]

Argaman v. Ratan (1999) 73 Cal.App.4th 1173 [86 Cal.Rptr.2d 917]

under Corporations Code section 317

outside counsel retained by corporation to defend against litigation was not agent of corporation for purposes of statute indemnifying persons sued by reason of such agency for defense costs

Channel Lumber Co. Inc. v. Simon (2000) 78 Cal.App.4th 1222 [93 Cal.Rptr.2d 482]

under Corporations Code section 8337

-failure to award fees to plaintiff wrongfully denied access to the defendant association's meeting minutes constituted abuse of discretion

Moran v. Oso Valley Greenbelt Assn (2001) 92 Cal.App.4th 156 [111 Cal.Rptr.2d 636]

under Government Code section 6250

Los Angeles Times v. Alameda Corridor Transportation Authority (2001) 88 Cal.App.4th 1381 [107 Cal.Rptr.2d 29]

Fontana Police Dept. v. Villegas-Banuelos (1999) 74 Cal.App.4th 1249 [88 Cal.Rptr.2d 641]

under Health & Safety Code section 13009.1

-fees not recoverable unless they are specifically authorized by contract, statute, or law

California Department of Forestry & Fire Protection v. LeBrock (2002) 96 Cal.App.4th 1137 [117 Cal.Rptr.2d 790]

under Information Practices Act (California)

lodestar method in calculating attorney's fees

Meister v. Regents of the University of California (1998) 67 Cal.App.4th 437 [78 Cal.Rptr. 913]

under Labor Code § 98.2

-former employee's attorneys entitled to attorney's fees even if they represent party without charge

Lolley v. Campbell (2002) 28 Cal.4th 367 [121 Cal.Rptr.2d 571]

under Labor Code §§ 3856 and 3860

-claimant's attorney is not entitled to fees from settlement proceeds if claimant received no benefit from the settlement

Draper v. Aceto (2001) 26 Cal.4th 1086 [113 Cal.Rptr.2d 61]

under Probate Code section 10810

Estate of Condon (1998) 65 Cal.App.4th 1138 [76 Cal.Rptr.2d 922]

under Welfare and Institutions Code §§ 15600 et seq.

Conservatorship of Leviitt (2001) 93 Cal.App.4th 544 [113 Cal.Rptr.2d 294]

under 15 U.S.C. § 15

Image Technical Services v. Eastman Kodak Co. (9th Cir. 1998) 136 F.3d 1354

under 15 U.S.C. § 78u4(a)(6)

-fee awards in federal securities fraud actions must be reasonable in relation to plaintiffs' recovery

Powers v. Eichen (9th Cir. 2000) 229 F.3d 1249

under 28 U.S.C. § 2412(d)

Jones v. Espy (1993) 10 F.3d 690

Oregon Natural Resources Council v. Madigan (9th Cir. 1992) 980 F.2d 1330

under 28 U.S.C. § 1447(c)

Moore v. Permanente Medical Group, Inc. (9th Cir. 1992) 981 F.2d 443

under 28 U.S.C. § 1291

Tashima v. Administrative Office of the United States Courts (9th Cir. 1991) 967 F.2d 1264

under 29 U.S.C. § 621 et seq.

-fees paid directly to plaintiff's counsel by defendant pursuant to ADEA's fee-shifting provision is taxable income to plaintiff

Sinyard v. Commissioner of Internal Revenue (9th Cir. 2001) 268 F.3d 756

under 31 U.S.C. § 3729(a)(1), False Claims Act

-court must provide detailed findings in support of any award

Pfingston v. Ronan Engineering Co. (9th Cir. 2002) 284 F.3d 999

under 33 U.S.C. § 1365

Morris-Smith v. Moulton Niguel Water District (2000) 44 F.Supp.2d 1084

under 42 U.S.C. § 1988

Labotest, Inc. v. Bonta (9th Cir. 2002) 297 F.3d 892

Corder v. Gates (9th Cir. 1996) 104 F.3d 247

BFI Medical Waste Systems v. Whatcom (1993) 983 F.2d 911

Thomas v. Bible (1993) 983 F.2d 152

Choate v. County of Orange (2001) 86 Cal.App.4th 312 [103 Cal.Rptr.2d 339]

-plaintiff who wins state claim but loses federal claim not awarded attorney fees

McFadden v. Villa (2001) 93 Cal.App.4th 235 [113 Cal.Rptr.2d 80]

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under 42 U.S.C. § 9607

- Key Tronic Corp. v. U.S. (1993) 984 F.2d 1025
Stanton Road Associates v. Lohrey Enterprises (1993) 984 F.2d 1015
- United States liability for
Lauritzen v. Lehman (9th Cir. 1984) 736 F.2d 551
 waiver of
Evans v. Jeff D. (1986) 475 U.S. 717 [106 S.Ct. 1531] LA 445 (1987)
 -not presumed from silent record
Wakefield v. Mathews (9th Cir. 1988) 852 F.2d 482
 will not be disturbed absent abuse of discretion
 -federal securities fraud matter remanded because the trial court did not adequately explain the basis for the award of attorney fees
Powers v. Eichen (9th Cir. 2000) 229 F.3d 1249
 -no abuse of discretion shown
Rite Nail Packaging Corp. v. Berry Fast (1983) 706 F.2d 933, 936
Binet v. California Health and Welfare Agency (9th Cir. 1983) 704 F.2d 1465, 1473
 -trial court abused discretion in limiting award of attorney's fees
United Steelworkers of America v. Phelps Dodge Corp. (9th Cir. 1990) 896 F.2d 403
Hadley v. Krepel (1985) 167 Cal.App.3d 677, 682-683, 686-687 [214 Cal.Rptr. 461]
 -Workers' Compensation lien fund and trial court's authority to allocate amount for attorney fees
Hartwig v. Farms (1992) 2 Cal.App.4th 1550
- Workers' compensation
Summers, et al. v. Newman, et al. (1999) 20 Cal.4th 1021 [86 Cal.Rptr.2d 303]
 -claimant's attorney is not entitled to fees from settlement proceeds if claimant received no benefit from the settlement
Draper v. Aceto (2001) 26 Cal.4th 1086 [113 Cal.Rptr.2d 61]
 -non-attorney's law firm representative of injured employee may not be entitled to same fees as licensed attorney
99 Cents Only Stores v. Workers' Compensation Appeals Board (2000) 80 Cal.App.4th 644 [95 Cal.Rptr.2d 659]
- Award of compensation for law clerk and paralegal time reasonably spent on plaintiff's case
United Steelworkers of America v. Phelps Dodge Corp. (9th Cir. 1990) 896 F.2d 403
- Bankruptcy
 attorney cannot use confidences of former client to challenge client's discharge of fees owed
In re Rindlisbacher (9th Cir. BAP 1998) 225 B.R. 180 [33 Bankr.Ct.Dec. 258, 2 Cal.Bankr.Ct.Rep. 43]
 attorney not licensed in Arizona, but who is admitted to practice before Arizona district court, can receive fee as counsel for Chapter 13 debtor
In re Poole (9th Cir. BAP 2000) 222 F.3d 618
In re Mendez (1999 BAP) 231 B.R. 86
 attorney who provided debtor with pre-petition legal services in marital dissolution matter lacks standing to complain her unpaid fee is not dischargeable
In re Dollaga (9th Cir. BAP 2001) 260 B.R. 493 [5 Cal. Bankr. Ct. Rep. 91]
 attorney's fees are administrative expenses that must be paid first
In re Shorb (1989) 101 B.R. 185
 attorney's fees denied without court authorization
In re Monument Auto Detail, Inc. (9th Cir. BAP 1998) 226 B.R. 219 [33 Bankr.Ct.Dec. 419]
 automatic stay not applicable to attorney's efforts to collect previously agreed-upon fees for post-petition services
In re Hines (9th Cir. BAP 1998) 198 B.R. 769 [36 Collier Bankr.CAS2d 577]
 awarding interim fees to attorney in bankruptcy action
In re International Environmental Dynamics (9th Cir. 1983) 718 F.2d 322
 bankruptcy court did not abuse its discretion in declining to decide post-dismissal motion to enforce fee agreement between debtor and attorney
In re Elias (9th Cir. BAP 1999) 188 F.3d 1160 [34 Bankr.Ct.Dec. 1229]
- bankruptcy court has jurisdiction to approve post-petition attorney fees
In re Knudsen Corporation (1988) 84 B.R. 668
 bankruptcy court's jurisdiction to amend award of attorney's fees under CCP § 187 and the inherent power of federal courts
In re Levander (9th Cir. 1999) 180 F.3d 1114
 chapter 7 debtor's attorney may receive professional fees from bankruptcy estate for post-petition services
In re Century Cleaning Services, Inc. (9th Cir. BAP 1999) 195 F.3d 1053 [35 Bankr.Ct.Dec. 63]
 chapter 9 fee agreement based on fixed hourly rate but provides for possible increase found valid
In re County of Orange (C.D. Cal. 1999) 241 B.R. 212 [4 Cal. Bankr. Ct. Rep. 117]
 court had authority under tax code to pay debtor's attorney fees
In re Germaine (1993) 152 B.R. 619
 delay in bankruptcy court's approval of payment does not entitle enhanced attorneys fees
In re Music Merchants, Inc. (C.D. Cal. 1997) 208 B.R. 944
 disgorgement of attorney fees against firm and attorney employee is proper
Bankruptcy of Sandoval (9th Cir. 1995) 186 B.R. 490
 disgorgement of attorney fees is allowed after violation of bankruptcy code and rules
Bankruptcy of Basham (9th Cir. 1997) 208 B.R. 926
 disgorgement of attorney fees against firm not proper where law firm representation was approved by court
In re S.S. Retail Stores (9th Cir. 2000) 216 F.3d 882 [36 Bankr.Ct.Dec. 79]
 failure to obtain court approval for employment of counsel may operate to deny payment of attorney fees
In re Shirley (1992) 134 B.R. 940
 fee provision in security agreement did not serve as ground for awarding fees and costs to oversecured creditor following its successful defense of adversary preference proceeding
In re Connolly (9th Cir. BAP 1999) 238 B.R. 475 [34 Bankr.Ct.Dec. 1219]
 fees for wife's attorney in dissolution dischargeable in bankruptcy
In re Gibson (1989) 103 B.R. 218
 security retainer agreements require appropriate fee applications made to the court
In re Montgomery Drilling Co. (E.D. Cal. 1990) 121 B.R. 32
- Based on agreement
Tarver v. State Bar (1984) 37 Cal.3d 122
In the Matter of Silverton (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 252
- Billing
 billing service, use of
 LA 423 (1983), LA 374 (1978)
 clients must understand and consent to billing practices
 CAL 1996-147, OR 99-001
 "double billing"
 CAL 1996-147, OR 99-001
 fee agreement based on fixed hourly rate but provides for possible increase found valid
In re County of Orange (C.D. Cal. 1999) 241 B.R. 212 [4 Cal. Bankr. Ct. Rep. 117]
 "over-billing"
 district court may not reduce fees without identifying the hours spent inefficiently or providing any explanation of the particular degree of reduction
Ferland v. Conrad Credit Corp. (9th Cir. 2001) 244 F.3d 1145
 district court may review attorney's "billing judgment" and reduce fees if some tasks should have been delegated to associate or paralegal
MacDougal v. Catalyst Nightclub (1999) 58 F.Supp.2d 1101
 OR 99-001
 preparation of false and misleading billing statements involves moral turpitude

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- In the Matter of Berg (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 725
- services of law clerks, legal assistants (paralegal), and secretaries
- MacDougal v. Catalyst Nightclub (1999) 58 F.Supp.2d 1101 rates originally agreed to by a client may not be raised by a law firm without first notifying the client
- Severson, Werson et. al. v. Bollinger (1991) 235 Cal.App.3d 1569, mod. at 1 Cal.App.4th 417a
- LA 479
- services of law clerks, legal assistants (paralegal), and secretaries
- LA 391 (1981)
- Billing statements are not protected by attorney-client privilege
- Clarke v. American Commerce National Bank (9th Cir. 1992) 974 F.2d 127
- CAL 2002-159
- Bonus
- to lay employee
- LA 457
- Charge interest
- CA Constitution Art. 15, Usury § 1, par. 2
- on past due receivables
- CAL 1980-53, LA 374 (1978), LA 370 (1978)
- SD 1983-1, SD 1976-8, SF 1970-1
- Child support
- Boutte v. Nears (1996) 50 Cal.App.4th 162 [57 Cal.Rptr.2d 655]
- child support act
- putative father's successful defense of paternity/reimbursement action does not include right to attorney fees
- County of Santa Barbara v. David R. (1988) 200 Cal.App.3d 98 [245 Cal.Rptr. 836]
- Civil Code section 1717
- attorney fees may be awarded to attorneys who represent each other in fee dispute with client that attorneys jointly represented
- Farmers Insurance Exchange v. Law Offices of Conrado Joe Sayas, Jr. (9th Cir. 2001) 250 F.3d 1234
- attorney litigating in propria persona
- award of discovery sanctions under CCP § 2030(1) analogized to award of attorney's fees under CC § 1717
- Argaman v. Ratan (1999) 73 Cal.App.4th 1173 [86 Cal.Rptr.2d 917]
- may recover reasonable attorney fees for legal services of assisting counsel
- Mix v. Tumanjan Development Corp. (2002) 102 Cal.App.4th 1318 [126 Cal.Rptr.2d 267]
- attorney represented by other members of his law firm is entitled to recover attorney fees where the representation involved the attorney's personal interests and not those of the firm
- Gilbert v. Master Washer & Stamping Co., Inc. (2000) 87 Cal.App.4th 212 [104 Cal.Rptr.2d 461]
- mutuality of remedy when contract permits recovery of attorney fees
- Jones v. Drain (1983) 149 Cal.App.3d 484, 490 [196 Cal.Rptr. 827]
- Class action
- absent class members not liable for employer's attorney's fees in overtime dispute
- Earley v. Superior Court (2000) 79 Cal.App.4th 1420 [95 Cal.Rptr.2d 57]
- amount of attorney's fees determined to be reasonable in light of quantity and quality
- 7-Eleven Owners for Fair Franchising v. The Southland Corporation (2000) 85 Cal.App.4th 1135 [102 Cal.Rptr.2d 277]
- attorney's fees for securities class action suits should be based on individual case risk
- In re Quantum Health Resources, Inc. (C.D. Cal. 1997) 962 F.Supp. 1254
- attorney's fees should be adequate to promote
- Feuerstein v. Burns (S.D. Cal. 1983) 569 F.Supp. 271
- awarded pursuant to Civil Code section 1717
- Acree v. General Motors Acceptance Corp. (2001) 92 Cal.App.4th 385 [112 Cal.Rptr.2d 99]
- district court presiding over settlement fund had equitable power to award attorney fees for work outside litigation immediately before court where that work helped create settlement fund
- Wininger v. SI Management, L.P. (9th Cir. 2002) 301 F.3d 1115
- negative multiplier decreasing the lodestar is justified where amount of time attorney spent on case was unreasonable and duplicative
- Thayer v. Wells Fargo Bank (2001) 92 Cal.App.4th 819, mod. at 93 Cal.App.4th 324A [112 Cal.Rptr.2d 284]
- standing to appeal awards of
- Lobatz v. U.S. West Cellular (9th Cir. 2000) 222 F.3d 1142
- under Code of Civil Procedure section 916
- former attorneys enjoined from prosecuting suit for fees against litigants while judgment was pending on appeal
- Franklin & Franklin v. 7-Eleven Owners for Fair Franchising (2000) 85 Cal.App.4th 1168 [102 Cal.Rptr.2d 770]
- Collection of [See Collections.]
- CAL 1982-68
- attorney collection agency
- Business and Professions Code section 6077.5
- Fair Debt Collection Practices Act applies to attorneys regularly engaged in consumer debt-collection
- Heintz v. Jenkins (1995) 414 U.S. 291 [115 S.Ct. 1489]
- bankruptcy action
- In re Monument Auto Detail, Inc. (9th Cir. BAP 1998) 226 B.R. 219 [33 Bankr.Ct.Dec. 419]
- bankruptcy court must scrutinize a law firm's unsecured claim for attorney's fees
- In re Marquam Investment Corporation (9th Cir. 1991) 942 F.2d 1462
- billing service, use of
- LA 423 (1983), LA 374 (1978)
- collection agency, use of
- LA 373 (1978)
- use of state procedure to execute federal judgment
- In re Levander (9th Cir. 1999) 180 F.3d 1114
- Confession of judgment signed by client to assure fee collection improper
- Hulland v. State Bar (1972) 8 Cal.3d 440 [105 Cal.Rptr. 152]
- In the Matter of Lane (Review Dept. 1994) 2 Cal. State Bar Ct. Rptr. 735
- Conflict of interest
- Image Technical Services v. Eastman Kodak Co. (9th Cir. 1998) 136 F.3d 1354
- United States ex. Rel. Alnoor Virani v. Jerry M. Truck Parts & Equipment, Inc. (9th Cir. 1996) 89 F.3d 574
- Cal Pak Delivery, Inc. v. United Parcel Service (1997) 52 Cal.App.4th 1 [60 Cal.Rptr.2d 207]
- Asbestos Claims Facility v. Berry & Berry (1990) 219 Cal.App.3d 9, 36-37 [267 Cal.Rptr. 896, 906-907]
- Jeffry v. Pounds (1977) 67 Cal.App.3d 6, 12 [136 Cal.Rptr. 373, 377]
- Goldstein v. Lees (1975) 46 Cal.App.3d 614, 617-618 [120 Cal.Rptr. 253, 254-255]
- Conservatorship of Chilton (1970) 8 Cal.App.3d 34, 43 [86 Cal.Rptr. 860, 866]
- attorney engaged in conflicting representation without obtaining informed written consent not entitled to recover fees
- Blecher & Collins v. Northwest Airlines, Inc. (C.D. Cal. 1994) 858 F.Supp. 1442
- Image Technical Services v. Eastman Kodak Co. (9th Cir. 1998) 136 F.3d 1354
- no recovery of attorney's fees where attorney engaged in conflicting representation without obtaining informed written consent
- Image Technical Services v. Eastman Kodak Co. (9th Cir. 1998) 136 F.3d 1354
- Conflict of interest, fees paid by third party
- Strolow v. Strolow, Inc. (9th Cir. 1987) 813 F.2d 997
- CAL 1975-35

FEES

Conservatorship

conservatee cannot obligate conservatorship estate for payment of attorney's fees

Young, etc. v. Thomas (1989) 210 Cal.App.3d 812 [258 Cal.Rptr. 574]

Contingent [See Contingent Fee.]

Contract

contrary to law, policy or morals

Kallen v. Delug (1984) 157 Cal.App.3d 940, 949-950 [203 Cal.Rptr. 879]

under CC § 1717

Scott Co. of California v. Blount Co. (1999) 20 Cal.4th 1103 [86 Cal.Rptr.2d 614]

Fairchild v. Park (2001) 90 Cal.App.4th 919 [109 Cal.Rptr.2d 442]

Manierv. Anaheim Business Center Co. (1984) 61 Cal.App.3d 503

-party claiming entitlement to fees estopped from later challenging the fees provision

International Billing Services, Inc. v. Emigh (2000) 84 Cal.App.4th 1175 [101 Cal.Rptr.2d 532]

County beneficiary of SSI benefits in debtor-creditor relationship with recipients of county funds no duty to share costs of plaintiff's attorney's fees

Neal v. County of Stanislaus (1983) 141 Cal.App.3d 534 [190 Cal.Rptr. 324]

Court has discretion to award under Criminal Justice Act

Matter of Baker (9th Cir. 1982) 693 F.2d 925

Court must consider relevant guidelines in setting fees

Fitzharris v. Wolff (9th Cir. 1983) 702 F.2d 836

Delay of client's matter to collect [See Unpaid fee.]

Business and Professions Code section 6128

CAL 1968-16

when court awards none

LA(l) 1962-4

Demand from third party

LA 226 (1955)

third-party claimant who was not intended beneficiary of attorney fee clause in contract denied award

Sessions Payroll Management, Inc. v. Noble Construction (2000) 84 Cal.App.4th 671 [101 Cal.Rptr.2d 127]

Derivative action

First Security Bank of California, N.A. v. Paquet (2002) 98 Cal.App.4th 468 [119 Cal.Rptr.2d 787]

Determination of [See Bid for legal work.]

agreement

-in divorce

LA 226 (1955)

by statute and contract

Code of Civil Procedure section 1021

charge less than

-allowed by court

LA 65 (1931)

-schedule, custom, or statute

LA 102 (1937)

charge more than allowed by court

LA(l) 1962-4

quote specific amount for certain services

LA 342 (1973)

rate increased during representation

Severson, Werson, Berke & Melchior v. Bollinger (1991) 235 Cal.App.3d 1569, opn. mod. at 1 Cal.App.4th 417a LA 479

-fee agreement based on fixed hourly rate but provides for possible increase found valid

In re County of Orange (C.D. Cal. 1999) 241 B.R. 212 [4 Cal. Bankr. Ct. Rep. 117]

Discharge of attorney with cause

attorney entitled to collect for services rendered prior to misconduct

Moore v. Fellner (1958) 50 Cal.2d 330 [325 P.2d 857]

Jeffry v. Pounds (1977) 67 Cal.App.3d 6, 12 [136 Cal.Rptr. 373]

attorney's behavior which undermines trust may be grounds for discharge

Moser v. Western Harness Racing Association (1948) 89 Cal.App.2d 1, 8 [200 P.2d 7]

client has implied right to discharge

Fracasse v. Brent (1972) 6 Cal.3d 784 [100 Cal.Rptr. 385]

failure to use ordinary care furnishes cause for discharge

Salopek v. Schoemann (1942) 20 Cal.2d 150, 153 [124 P.2d 21]

Disclosure in bankruptcy proceeding

LA 452

lien against client file

-void

Academy of Calif. Opt. Inc. v. Superior Court (1975) 51 Cal.App.3d 999, 1006 [124 Cal.Rptr. 668]

Discounted as consideration for referrals

CAL 1983-75

Discretion of trial judge to award in county actions for recovery of support payments

County of Kern v. Ginn (1983) 146 Cal.App.3d 1107 [194 Cal.Rptr. 512]

Disgorgement of fees and costs as equitable relief

In re S.S. Retail Stores (9th Cir. 2000) 216 F.3d 882 [36 Bankr.Ct.Dec. 79]

Dispute

absent agreement, fees awarded pursuant to California FEHA belong to attorneys who labored on case and not to client

Flannery v. Prentice (2001) 26 Cal.4th 572 [110 Cal.Rptr.2d 809, 28 P.3d 860]

attorney cannot use confidences of former client to challenge client's Chapter 7 discharge of fees owed

In re Rindlisbacher (9th Cir. BAP 1998) 225 B.R. 180 [33 Bankr.Ct.Dec. 258, 2 Cal.Bankr.Ct.Rep. 43]

between law firm and former shareholder

former shareholder has no ownership or lien interest upon fees owed to firm by client

City of Morgan Hill v. Brown (1999) 71 Cal.App.4th 1114 [84 Cal.Rptr.2d 361]

binding private arbitration clause in attorney-client fee agreement not effective where client requested mandatory arbitration pursuant to State Bar rules for fee disputes

Alternative Systems, Inc. v. Carey (1998) 67 Cal.App.4th 1034 [79 Cal.Rptr.2d 567]

client given benefit of doubt regarding modified contract for fees

Baron v. Mare (1975) 47 Cal.App.3d 304 [120 Cal.Rptr. 675]

jurisdiction issues

In re County of Orange (C.D. Cal. 1999) 241 B.R. 212 [4 Cal. Bankr. Ct. Rep. 117]

settlement check issued only to client, but delivered to attorney who has a lien

OR 99-002

unnamed class member who failed to intervene at trial in a securities fraud action had standing to appeal the trial court's award of attorney fees

Powers v. Eichen (9th Cir. 2000) 229 F.3d 1249

Dissolution

In re Marriage of Jovel (1996) 49 Cal.App.4th 575 [56 Cal.Rptr.2d 740]

In re Marriage of Munqua (1983) 146 Cal.App.3d 853 [194 Cal.Rptr. 199]

fees for wife's attorney in dissolution dischargeable in bankruptcy

In re Gibson (9th Cir. 1989) 103 B.R. 218

rights of spouse to

In re Marriage of Askren (1984) 157 Cal.App.3d 205, 212 [203 Cal.Rptr. 606]

District court

determination of

In re County of Orange (C.D. Cal. 1999) 241 B.R. 212 [4 Cal. Bankr. Ct. Rep. 117]

Jeff D. v. Evans (9th Cir. 1984) 743 F.2d 648, 650-651

FEES

Division of, when partnership dissolves

Fox v. Abrams (1985) 163 Cal.App.3d 610 [21 Cal.Rptr. 260]
Jewel v. Boxer (1984) 156 Cal.App.3d 171 [203 Cal.Rptr. 13]
 post-dissolution profits from unfinished partnership business
*Dickson, Carlson & Campillo v. Pole (2000) 83
 Cal.App.4th 436 [99 Cal.Rptr.2d 678]

Division of, when shareholder leaves firm

former shareholder has no right on interpleader to contingency
 fee from cases which shareholder settled while working for
 firm

City of Morgan Hill v. Brown (1999) 71 Cal.App.4th 1114
 [84 Cal.Rptr.2d 361]

duty to submit to bar association arbitration committee

LA 309 (1969)

hold client's papers

LA 330 (1972), LA(l) 1970-6
 SD 1977-3, SF 1973-12

unilateral withdrawal of funds by attorney

LA 438 (1985)

Donation of legal fees

LA 434 (1984)

contingent upon bequest to certain organization

LA 428 (1984)

for charitable auction

CAL 1982-65, SF 1973-27

Due an attorney on matters unrelated to the malpractice issue at bar

American Home Assurance Co. v. Miller (9th Cir. 1983) 717
 F.2d 1310

Each party must pay own

Code of Civil Procedure section 1021

Gray v. Don Miller & Associates, Inc. (1984) 35 Cal.3d 498,
 504-509

Elder Abuse and Dependent Adult Civil Protection Act

value of an estate is a factor in setting fees and is consistent
 with CRPC 4-200

Conservatorship of Levitt (2001) 93 Cal.App.4th 544 [113
 Cal.Rptr.2d 294]

Employees of government may recover certain costs of defense if the action arose from acts or omissions in course of employment

City of Redondo Beach v. Delong (1981) 123 Cal.App.3d 1035
 [177 Cal.Rptr. 77]

Equal Access to Justice Act

against government

U.S. v. Marolf (9th Cir. 2002) 277 F.3d 1156

U.S. v. Real Property at 2659 Roundhill Drive, Alamo,
 California (9th Cir. 2002) 283 F.3d 1146

U.S. v. One 1997 Toyota Land Cruiser (9th Cir. 2001) 248
 F.3d 899

U.S. v. Real Property Known as 22249 Dolorosa Street
 (9th Cir. 2000) 190 F.3d 977

reasonable market rates

Brown v. Sullivan (9th Cir. 1990) 916 F.2d 492

statutory basis for

U.S. v. Real Property Known as 22249 Dolorosa Street
 (9th Cir. 2000) 190 F.3d 977

requires attorney's fees absent substantially justified government position

U.S. v. Marolf (9th Cir. 2002) 277 F.3d 1156

Thomas v. Peterson (9th Cir. 1988) 841 F.2d 332

to prevailing party

-standard for awarding attorney's fees under Equal Access to
 Justice Act

U.S. v. Marolf (9th Cir. 2002) 277 F.3d 1156

U.S. v. Real Property at 2659 Roundhill Drive, Alamo,
 California (9th Cir. 2002) 283 F.3d 1146

U.S. v. One 1997 Toyota Land Cruiser (9th Cir. 2001) 248
 F.3d 899

U.S. v. Real Property Known as 22249 Dolorosa Street
 (9th Cir. 2000) 190 F.3d 977

under 28 U.S.C. section 2412(d)

U.S. v. Real Property at 2659 Roundhill Drive, Alamo,
 California (9th Cir. 2002) 283 F.3d 1146

U.S. v. One 1997 Toyota Land Cruiser (9th Cir. 2001) 248
 F.3d 899

U.S. v. Real Property Known as 22249 Dolorosa Street
 (9th Cir. 2000) 190 F.3d 977

value of plaintiff's assets determined

United States v. 88.88 Acres of Land (9th Cir. 1990) 907
 F.2d 106

Error in awarding fees

family law court erred in accepting commissioner's findings
 as to attorney fees and costs where commissioner provided
 no notice to affected attorney and had recused himself for
 bias

In re Marriage of Kelso (1998) 67 Cal.App.4th 374 [79
 Cal.Rptr.2d 39]

Estate

administrator's attorney's fee for representing administrator
 as heir

LA 237 (1956)

attorney for personal representative bills heir for services for
 which estate is liable

LA(l) 1956-7

executor's attorney charges for performance of delegable
 duties of executor

Probate Code sections 10804 and 15687

LA 347 (1975)

executor's attorney's fee when secretary is executor

LA 382 (1979)

legal fees for administration chargeable to estate

Houghton v. Coberly (1962) 201 Cal.App.2d 820 [20
 Cal.Rptr. 489]

Excellent work does not justify enhanced fee; inadequate work
 may serve to reduce fee

Southwestern Media Inc. v. Rau (9th Cir. 1983) 708 F.2d
 419

Grossman v. State Bar (1983) 34 Cal.3d 73 [192 Cal.Rptr.
 397]

Excessive

Alexander v. Superior Court (1994) 22 Cal.App.4th 901 [27
 Cal.Rptr.2d 732]

Recht v. State Bar (1933) 218 Cal. 352, 354 [23 P.2d 273]
Goldstone v. State Bar (1931) 214 Cal. 490, 497 [6 P.2d
 513]

negative multiplier decreasing the lodestar is justified where
 amount of time attorney spent on case was unreasonable
 and duplicative

Thayer v. Wells Fargo Bank (2001) 92 Cal.App.4th 819,
 mod. at 93 Cal.App.4th 324A [112 Cal.Rptr.2d 284]

Exorbitant

district court may review attorney's "billing judgment" and
 reduce fees if some tasks should have been delegated to
 associate or paralegal

MacDougal v. Catalyst Nightclub (1999) 58 F.Supp.2d
 1101

fee charged in excess of reasonable value of services does
 not of itself warrant discipline

Herrscher v. State Bar (1935) 4 Cal.2d 399, 401-402 [49
 P.2d 832]

exorbitant and unconscionable fee charged

Shaffer v. Superior Court (1995) 33 Cal.App.4th 993 [39
 Cal.Rptr.2d 506]

Recht v. State Bar (1933) 218 Cal. 352, 354 [23 P.2d
 273]

CAL 1996-147, CAL 1994-135; OR 93-002

gross overcharge by attorney may warrant discipline

Shaffer v. Superior Court (1995) 33 Cal.App.4th 993 [39
 Cal.Rptr.2d 506]

Bushman v. State Bar (1974) 11 Cal.3d 558, 562, 564
 [113 Cal.Rptr. 904, 522 P.2d 312]

test for impermissible overcharge – "shock the conscience"

Ramirez v. Sturdevant (1994) 21 Cal.App.4th 904 [26
 Cal.Rptr.2d 554]

Tarver v. State Bar (1984) 37 Cal.3d 122, 134 [207
 Cal.Rptr. 302]

FEES

Expert witness fees

expert witness fees cannot be included as attorney fees or recovered as "necessary expense" under contract unless properly pled and proved

First Nationwide Bank v. Mountain Cascade Inc. (2000) 77 Cal.App.4th 871 [92 Cal.Rptr.2d 145]

Failure to return unearned fees

Bowles v. State Bar (1989) 48 Cal.3d 100 [255 Cal.Rptr. 846]
Bernstein v. State Bar (1990) 50 Cal.3d 221

Carter v. State Bar (1988) 44 Cal.3d 1091 [245 Cal.Rptr. 628]

Ballard v. State Bar (1983) 35 Cal.3d 274

In the Matter of Freydl (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 349

In the Matter of Johnson (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 179

In the Matter of Lantz (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 126

more than minimal preliminary services required to justify retention of advanced fees

In the Matter of Phillips (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 315

until after disciplinary action initiated

Segal v. State Bar (1988) 44 Cal.3d 1077 [245 Cal.Rptr. 404]

False Claims Act provides for award of fees under rare and special circumstances

Pfingston v. Ronan Engineering Co. (9th Cir. 2002) 284 F.3d 999

Fee arbitration

Business and Professions Code sections 6200-6206

Pickens v. Weaver (1985) 173 Cal.App.3d 550 [219 Cal.Rptr. 91]

Loeb & Loeb v. Beverly Glen Music, Inc. (1985) 166 Cal.App.3d 1110 [212 Cal.Rptr. 830]

notice of client's right to arbitrate a dispute must be given after dispute has arisen

OR 99-002

waiver of due to filing pleading for affirmative relief

Juodakis v. Wolfrum (1986) 177 Cal.App.3d 587 [223 Cal.Rptr. 95]

Financing

CAL 2002-159, CAL 1980-53

LA 308 (1968)

SD 1983-1

Board Policy Statement (April 20, 1967) III.A.1., supra
credit card

LA(I) 1972-26

SD 1974-6, SD 1972-13, SD 1972-10

Board of Governors Policy Statement (April 20, 1967)
III.A.1., supra.

through banks

LA 288 (1965)

through lending institutions

LA 288 (1965)

Finder's fee

Tuohy & Barton v. Anaheim Memorial Hospital (1986) 187 Cal.App.3d 609 [231 Cal.Rptr. 706]

For

alimony payments, processing of

LA(I) 1969-1

child support payments, processing of

LA(I) 1969-1

collections

LA 275 (1963), LA 263 (1959), LA(I) 1955-1

service of process by lay employee

LA(I) 1968-4

Foreclosures

statutory fees limitation applies to both judicial and non-judicial foreclosures

Bruntz v. Alfaro (1989) 212 Cal.App.3d 411 [260 Cal.Rptr. 488]

Forwarding fees

Rule 2-108(A), Rules of Professional Conduct (operative until May 26, 1989)

Rule 2-200, Rules of Professional Conduct (operative as of May 27, 1989)

Compagna v. City of Sanger (1996) 42 Cal.App.4th 533 [49 Cal.Rptr.2d 676]

Scolinos v. Kolts (1995) 37 Cal.App.4th 635 [44 Cal.Rptr.2d 635]

Moran v. Harris (1982) 131 Cal.App.3d 913 [182 Cal.Rptr. 519]

Dunne & Gaston v. Keltner (1975) 50 Cal.App.3d 560 [123 Cal.Rptr. 430]

CAL 1994-138

LA 486, LA 467

Freedom of Information Act

fees awardable if public benefit outweighs economic benefit

United Assn. of Journeymen Apprentices v. Department of the Army (9th Cir. 1988) 841 F.2d 1459

Government

defense of city employees pursuant to Gov. Code § 995 et seq.

-city is not obligated to provide for defense of employees separate from that retained to jointly represent the city and the employees

City of Huntington Beach v. Peterson Law Firm (2002) 95 Cal.App.4th 562 [115 Cal.Rptr.2d 568]

property owner is entitled to attorney's fees as prevailing party in action to enforce inverse condemnation judgment against city

Mix v. Tumanjan Development Corp. (2002) 102 Cal.App.4th 1318 [126 Cal.Rptr.2d 267]

Andre v. City of West Sacramento (2001) 92 Cal.App.4th 532 [111 Cal.Rptr.2d 891]

Downen's, Inc. et al. v. City of Hawaiian Gardens Redevelopment Agency (2001) 86 Cal.App.4th 856 [103 Cal.Rptr.2d 644]

Gross overcharge

Ramirez v. Sturdevant (1994) 21 Cal.App.4th 904 [26 Cal.Rptr.2d 554]

Bushman v. State Bar (1974) 11 Cal.3d 558, 563 [113 Cal.Rptr. 904]

Group legal services

LA(I) 1971-9, SD 1973-7

Guidelines for courts to follow [See Award of attorneys' fees. Sanctions.]

29 U.S.C. section 1132(q)

Hummell v. S.E. Rykoff & Co. (9th Cir. 1980) 634 F.2d 446, 452-453

Guidelines for setting attorneys' fees

retirement branch

Sapper v. Lenco Blade, Inc. (9th Cir. 1983) 704 F.2d 1069, 1073

Handicapped Children's Protection Act

attorney's fees recoverable by plaintiff

McSomebodies v. San Mateo School District (9th Cir. 1990) 886 F.2d 1559

McSomebodies v. Burlingame Elementary School District (9th Cir. 1990) 886 F.2d 1558

Hybrid, hourly and contingent

OR 99-001, SF 1999-1

Illegal fee

Coviello v. State Bar (1953) 41 Cal.2d 273

Estate of Gilkison (1998) 65 Cal.App.4th 1443, fn. 2 [77 Cal.Rptr.2d 463]

In the Matter of Bailey (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 220

In the Matter of Phillips (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 315

In the Matter of Lantz (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 126

In the Matter of Berg (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 725

*Matter of Harney (Review Dept. 1995) 3 Cal. State Bar Ct. Rptr. 266

LA 466, OR 99-001

FEES

Improper billing

district court may review attorney's "billing judgment" and reduce fees if some tasks should have been delegated to associate or paralegal

MacDougal v. Catalyst Nightclub (1999) 58 F.Supp.2d 1101

LA 391 (1981), OR 99-001

Improper for court to withhold past-due SSI benefits for payment of attorney's fees

Bomen v. Galbreath (1988) 485 U.S. 74 [108 S.Ct. 892]

In propria persona client and advisor counsel share handling of case

People v. Bourland (1966) 247 Cal.App.2d 76, 87 [55 Cal.Rptr. 357]

Indigent person

Business and Professions Code section 6068(h)

CAL 1981-64

SF 1974-4

additional fee from family of

LA 245 (1957)

county hospital lien against indigent patient's tort recovery from third party subject to pro rata reduction for patient's reasonable attorney's fees

City and County of San Francisco v. Sweet (1995) 32 Cal.App.4th 1483 [38 Cal.Rptr.2d 620]

criminal cases

-right to ancillary defense services under Penal Code section 987.9

Tran v. Superior Court (People) (2001) 92 Cal.App.4th 1149 [112 Cal.Rptr.2d 506]

Insurance agent may be liable for attorney fees incurred by insured

Saunders v. Cariss (1990) 224 Cal.App.3d 905 [274 Cal.Rptr. 186]

Insurance cases

Civil Code section 2860 reactivity

San Gabriel Valley Water Company v. Hartford Accident and Indemnity Company (2000) 82 Cal.App.4th 1230 [98 Cal.Rptr.2d 807]

fees not recoverable from insurer in suits filed outside scope of policy terms

Olson v. Federal Insurance Co. (1990) 219 Cal.App.3d 252 [268 Cal.Rptr. 90]

insurer's ability to recover attorney fees from insured

Buss v. Superior Court (1996) 42 Cal.App.4th 1663 [50 Cal.Rptr.2d 447]

Interest on unpaid [See Charge interest.]

California Constitution Art. 15

Usury section 1, par. 2

CAL 1980-53

LA 370 (1978), LA 374 (1978)

SD 1983-1, SD 1976-8

SF 1970-1

Interim award of attorney's fees not an appealable collateral order

Hillery v. Rusher (9th Cir. 1983) 702 F.2d 848

Interim awards appropriate to party substantially prevailing

Powell v. United States Dept. of Justice (N.D. Cal. 1983) 569 F.Supp. 1192

Interim bankruptcy

In re International Environmental Dynamics (9th Cir. 1983) 718 F.2d 322

Invalid contract

Yuba Cypress Housing Partners, Ltd. v. Area Developers (2002) 98 Cal.App.4th 1077 [120 Cal.Rptr.2d 273]

Law clerks and paralegals

district court may review attorney's "billing judgment" and reduce fees if some tasks should have been delegated to associate or paralegal

MacDougal v. Catalyst Nightclub (1999) 58 F.Supp.2d 1101

LA 391 (1981)

Lien

as security for

CAL 1981-62

client may by agreements to secure fees

United States v. Stonehill (9th Cir. 1983) 702 F.2d 1288

common fund doctrine does not apply to contractual medical lienholders in personal injury matters

City and County of San Francisco v. Sweet (1995) 12 Cal.4th 105, 110, 115-117

Farmers Insurance Exchange et al. v. Smith (1999) 71 Cal.App.4th 660 [83 Cal.Rptr.2d 911]

Lovett v. Carrasco (1998) 63 Cal.App.4th 48 [73 Cal.Rptr.2d 496]

duty to pay medical lien with client's consent

Rule 4-210(A), Rules of Professional Conduct

Cooper v. State Bar (1987) 43 Cal.3d 1016, 1020 [239 Cal.Rptr. 709, 741 P.2d 206]

equitable lien for fees

Winslow v. Harold G. Ferguson Corp. (1944) 25 Cal.2d 274, 277 [153 P.2d 714]

equitable lien theory does not apply to contractual lienholders in personal injury matters

Great-West Life & Annuity Ins. Co. v. Knudson (2002) 534 U.S. 204 [122 S.Ct. 708]

Farmers Insurance Exchange et al. v. Smith (1999) 71 Cal.App.4th 660 [83 Cal.Rptr.2d 911]

no lien in absence of contract

Echlin v. Superior Court (1939) 13 Cal.2d 368 [90 P.2d 63]

physician's

CAL 1988-101

LA 368 (1977), LA 357 (1976)

priority of attorney liens

Pangborn Plumbing Corp. v. Carruthers & Skiffington (2002) 97 Cal.App.4th 1039 [119 Cal.Rptr.2d 416]

Cappa v. K & F Rock & Sand, Inc. (1988) 203 Cal.App.3d 172 [249 Cal.Rptr. 718]

settlement check issued only to client, but delivered to attorney who has a lien

OR 99-002

"Lodestar" multiplier method of fee calculation

In re County of Orange (C.D. Cal. 1999) 241 B.R. 212 [4 Cal. Bankr. Ct. Rep. 117]

Ketchum v. Moses (2001) 24 Cal.4th 1122 [104 Cal.Rptr.2d 377]

abuse of discretion where quality of representation was used to reduce

Van Gerwin v. Guarantee Mutual Life Co. (9th Cir. 2000) 214 F.3d 1041

negative multiplier decreasing the lodestar is justified where amount of time attorney spent on case was unreasonable and duplicative

Thayer v. Wells Fargo Bank (2001) 92 Cal.App.4th 819, mod. at 93 Cal.App.4th 324A [112 Cal.Rptr.2d 284]

Mandatory arbitration

Witkin, California Procedure 2d, Supp. Attorneys, section 106(A)ff.

Med-pay

Attorney Grievance Commission v. Kemp (1984) 496 A.2d 672

Medical malpractice

calculation under Business and Professions Code section 6146 when attorney has multiple clients

Yates v. Law Offices of Samuel Shore (1991) 229 Cal.App.3d 583 [280 Cal.Rptr. 316]

contract contingency fee limits in Business and Professions Code section 6146 are constitutional and to be followed even when clients agree to a higher fee contract

Shultz v. Harney (1994) 27 Cal.App.4th 1611

Roa v. Lodi Medical Group, Inc. (1985) 37 Cal.3d 920 [211 Cal.Rptr. 77]

Shepard v. Browne, Greene, et al. (1986) 185 Cal.App.3d 989 [230 Cal.Rptr. 233]

Hathaway v. Baldwin Park (1986) 168 Cal.App.3d 1247

federal tort claims act preempts California Business and Professions Code section 6146 fee limitation

Jackson v. United States (9th Cir. 1989) 881 F.2d 707

medical-legal consulting services entitlement to a contingent fee may be restricted by MICRA limitations

FEES

- Ojeda v. Sharp Cabrillo Hospital (1992) 8 Cal.App.4th 1
MICRA not applicable to medical procedure performed without patient's consent by doctor acting as agent of law enforcement
- Ellis v. City of San Diego (9th Cir. 1999) 176 F.3d 1183
- Membership fees
Business and Professions Code section 6140 et seq.
- Minimum fee schedules
Goldfarb v. Virginia State Bar (1975) 421 U.S. 773 [95 S.Ct. 2004]
Trout v. Carleson (1974) 37 Cal.App.3d 337 [112 Cal.Rptr. 282]
no longer in effect
SD 1973-7
- Minors' compromise
Probate Code sections 3500 et seq., 3600 et seq.
Sisco v. Cosgrove, Michelizzi, Schwabacher, Ward & Bianchi (1996) 51 Cal.App.4th 1302 [59 Cal.Rptr.2d 647]
Law Offices Of Stanley J. Bell v. Shine, Browne & Diamond (1995) 36 Cal.App.4th 1011 [43 Cal.Rptr.2d 717]
Schultz v. Harney (1994) 27 Cal.App.4th 1611 [33 Cal.Rptr.2d 276]
Goldberg v. Superior Court (1994) 23 Cal.App.4th 1378 [28 Cal.Rptr.2d 613]
trial court has jurisdiction to divide attorney fees between prior and current attorneys as part of minor's settlement approval
Padilla v. McClellan (2001) 93 Cal.App.4th 1100 [113 Cal.Rptr.2d 680]
- Must be licensed at time services performed to recover
Z. A. v. San Bruno Park School District (9th Cir. 1999) 165 F.3d 1273
Birbrower, Montalbano, Condon & Frank v. Superior Court (1998) 17 Cal.4th 119 [70 Cal.Rptr.2d 858]
Hardy v. San Fernando Valley Chamber of Commerce (1950) 99 Cal.App.2d 572, 576 [222 P.2d 314]
- Mutuality of remedies
Smith v. Krueger (1983) 150 Cal.App.3d 752, 757 [198 Cal.Rptr. 174]
- No attorney's fees as obligatee under contract that was not assumed
Wilson's Heating and Air Conditioning v. Wells Fargo Bank (1988) 202 Cal.App.3d 1326 [249 Cal.Rptr. 553]
- No award of attorney's fees when government takes no affirmative legal action
League of Women Voters of California v. F.C.C. (N.D. Cal. 1983) 568 F.Supp. 295, 301
- No recovery of attorney's fees if a violation of Rules of Professional Conduct occurs
United States ex rel. Alnoor Virani v. Jerry M. Truck Parts & Equipment, Inc. (9th Cir. 1996) 89 F.3d 574
Asbestos Claims Facility v. Berry & Berry (1990) 219 Cal.App.3d 9, 26-27 [267 Cal.Rptr. 896, 906-907]
Jeffrey v. Pounds (1977) 67 Cal.App.3d 6, 12 [136 Cal.Rptr. 373, 377]
Goldstein v. Lees (1975) 46 Cal.App.3d 614, 617-618 [120 Cal.Rptr. 253, 254-255]
Conservatorship of Chilton (1970) 8 Cal.App.3d 34, 43 [86 Cal.Rptr. 860, 866]
In the Matter of Kueker (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 583
denial of forfeiture motion on grounds that alleged ethical violations are irrelevant to the value of attorney's services to client
Padilla v. McClellan (2001) 93 Cal.App.4th 1100 [113 Cal.Rptr.2d 680]
serious ethical violation required, forfeiture never automatic
Pringle v. La Chappelle (1999) 73 Cal.App.4th 1000 [87 Cal.Rptr.2d 90]
- No recovery of attorney's fees where attorney voluntarily withdraws without cause
Ramirez v. Sturdevant (1994) 21 Cal.App.4th 904, 915
- Nominal fee
printed upon professional card
LA 131 (1940)
- None charged
charitable, educational, and religious organizations
SD 1974-19
for referrals from health plan
LA(l) 1931-3
for will
-leaving money for cause
LA 314 (1970), LA 196 (1952)
-to bank's customers
SD 1974-21 1/2
-to insurance broker's clients
SD 1976-6
labor union members
LA 151 (1944)
when client can pay
SD 1983-6
- Non-payment of
by client
-lawyer declines to perform further services
SD 1973-3, LA 32 (1925)
- Non-statutory award of attorney's fees
reasonable lodestar/risk factor
Beaty v. BET Holdings, Inc. (9th Cir. 2000) 222 F.3d 607
Feuerstein v. Burns (S.D. Cal. 1983) 569 F.Supp. 268
- Note and deed of trust to secure requires compliance with rule 5-101 (current rule 3-300)
Hawk v. State Bar (1988) 45 Cal.3d 589 [247 Cal.Rptr. 599]
- Note without deed of trust may not require compliance with CRPC 3-300
SF 1997-1
- Out-of-state attorney's
Estate of Condon (1998) 65 Cal.App.4th 1138 [76 Cal.Rptr.2d 922]
LA(l) 1969-3
- Paid by others
Rule 3-310(F), Rules of Professional Conduct
accessory of client in felony
LA(l) 1964-1
by corporation to minority shareholder's attorney
Strolow v. Strolow, Inc. (9th Cir. 1987) 813 F.2d 997
by fee guarantor
Wager v. Mirzayance (1998) 67 Cal.App.4th 1187 [79 Cal.Rptr. 661]
by government
-defending duties of legal services lawyer
CAL 1981-64
by individual homeowners of a condominium association
-payment of fees does not determine ownership of the attorney-client privilege
Smith v. Laguna Sur Villas Community Association (2000) 79 Cal.App.4th 639 [94 Cal.Rptr.2d 321]
by insurer of client
-counsel is acting on the insurer's behalf and representing the insurer's own rights and interest as well as those of its insured
Gafcon, Inc. v. Ponsor & Associates (2002) 98 Cal.App.4th 1388 [120 Cal.Rptr.2d 392]
-insurer is not a "client" for purposes of mandatory fee arbitration and may not demand an arbitration of attorney's fees incurred by on behalf of an insured client
National Union Fire Insurance Co. of Pittsburgh v. Stites Professional Law Corp. (1991) 235 Cal.App.3d 1718 [1 Cal.Rptr.2d 570]
LA 439 (1986)
- by non-lawyer immigration service providers
In re Valinoti (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 498
- by parent of client
Wager v. Mirzayance (1998) 67 Cal.App.4th 1187 [79 Cal.Rptr. 661]

- by trust beneficiaries
 - payment of fees does not determine ownership of the attorney-client privilege
 - Wells Fargo Bank v. Superior Court (Boltwood) (2000) 22 Cal.4th 201 [901 Cal.Rptr.2d 716]
- disclosure of identity
 - United States v. Blackman (1995) 72 F.3d 1418
 - Ralls v. U.S. (9th Cir. 1995) 52 F.3d 223
- fee financing plan
 - CAL 2002-159, OR 93-002
- head of criminal organization
 - to represent subordinate
 - CAL 1975-35
- not privileged information
 - Ralls v. U.S. (9th Cir. 1995) 52 F.3d 223
 - United States v. Hirsch (9th Cir. 1986) 803 F.2d 493
- third party agrees to indemnify client's legal fees but not entitled to confidences or secrets
 - LA 471 (1992), LA 456 (1990)
- Paid with funds illegally gained
 - funds for retention of private counsel not exempted from forfeiture of drug defendant's assets
 - People v. Superior Court (Clements) (1988) 200 Cal.App.3d 491 [246 Cal.Rptr. 122]
- Partnership agreement to divide fee upon partner leaving firm held unconscionable
 - former firm entitled to quantum meruit
 - Champion v. Superior Court (1988) 201 Cal.App.3d 777
- Partnership dissolution
 - CAL 1985-86
 - division of post-dissolution profits from unfinished partnership business
 - *Dickson, Carlson & Campillo v. Pole (2000) 83 Cal.App.4th 436 [99 Cal.Rptr.2d 678]
- Party must substantially prevail and government must have acted in bad faith to get attorney's fees
 - Guam Contractors Association v. U.S. Dept. of Labor (N.D. Cal. 1983) 570 F.Supp. 163, 170
- Periodic payments
 - client recovery is annuity, attorney is entitled to percentage of periodic payments
 - Sayble v. Feinman (1978) 76 Cal.App.3d 509 [142 Cal.Rptr. 895]
- Permissive intervention by client's former attorney concerning attorneys' fees
 - Venegas v. Skaggs (9th Cir. 1989) 867 F.2d 527
- Physician's
 - client's duty with respect to
 - LA 368 (1977), LA 357 (1976)
- Post-judgment
 - fees going to post-judgment collection costs not covered under terms of fees provision in pre-judgment contract
 - Chelios v. Kaye (1990) 219 Cal.App.3d 75 [268 Cal.Rptr. 38]
 - limitation on attorney fees for post-judgment monitoring services performed after effective date of Prison Litigation Reform Act
 - Martin v. Hadix (1999) 527 U.S. 343 [119 S.Ct. 1998]
 - limits imposed by Prison Litigation Reform Act did not burden prisoners' fundamental right of access to courts
 - Madrid v. Gomez (9th Cir. 1999) 190 F.3d 990
 - petition for relief from fee judgment permitted if underlying merits of judgment is reversed and party has paid adversary's attorney fees
 - California Medical Association v. Shalala (9th Cir. 2000) 207 F.3d 575
- Prevailing defendant in SLAPP action despite plaintiff's voluntary dismissal with prejudice
 - Kyle v. Carmon (1999) 71 Cal.App.4th 901 [84 Cal.Rptr.2d 303]
- Prevailing parties
 - Lucero v. Municipal Court (1993) 15 Cal.App.4th 784 [19 Cal.Rptr.2d 143]
- absent agreement, fees awarded pursuant to California FEHA belong to attorneys who labored on case and not to client
 - Flannery v. Prentice (2001) 26 Cal.4th 572 [110 Cal.Rptr.2d 809, 28 P.3d 860]
- administrative hearings
 - Smith v. Rae-Venter Law Group (2002) 29 Cal.4th 345 [127 Cal.Rptr.2d 516]
 - Hospital Systems, Inc. v. Office of Statewide Health Planning and Development (1994) 25 Cal.App.4th 1686 [30 Cal.Rptr.2d 922]
- agreement providing that trial court will determine prevailing party and award of attorney fees is valid and enforceable
 - Jackson v. Homeowners Association Monte Vista Estates-East (2001) 93 Cal.App.4th 773 [113 Cal.Rptr.2d 363]
- amended party must be given opportunity to respond and contest personal liability before judgment is entered against him
 - Nelson v. Adams USA, Inc. (2000) 529 U.S. 460 [120 S.Ct. 1579]
- apportionment not required if successful and unsuccessful claims are interrelated
 - Akins v. Enterprise Rent-A-Car of San Francisco (2000) 79 Cal.App.4th 1127 [94 Cal.Rptr.2d 448]
- arbitration cases
 - arbitration award may be modified where arbitrator inadvertently failed to rule on prevailing party's claim to attorney's fees and costs
 - Century City Medical Plaza v. Sperling, Issacs & Eisenberg (2000) 86 Cal.App.4th 865 [103 Cal.Rptr.2d 605]
 - arbitrator's denial of attorney's fees was not subject to judicial review where issue of fees was within scope of matters submitted for binding arbitration
 - Moshonov v. Walsh (2000) 22 Cal.4th 771 [94 Cal.Rptr.2d 597]
 - Moore v. First Bank of San Luis Obispo (2000) 22 Cal.4th 782 [94 Cal.Rptr.2d 603]
 - Harris v. Sandro (2002) 96 Cal.App.4th 1310 [117 Cal.Rptr.2d 910]
 - arbitrator's determination of, not subject to appellate review
 - Pierotti, et al. v. Torian (2000) 81 Cal.App.4th 17 [96 Cal.Rptr.2d 553]
- attorney fee awarded to party who obtained court order incorporating settlement agreement which includes the requested remedy
 - Labotest, Inc. v. Bonta (9th Cir. 2002) 297 F.3d 892
- class actions
 - absent class members not liable for employer's attorney's fees in overtime dispute
 - Earley v. Superior Court (2000) 79 Cal.App.4th 1420 [95 Cal.Rptr.2d 57]
 - attorney's fees for securities class action suits should be based on individual case risk
 - In re Quantum Health Resources, Inc. (C.D. Cal. 1997) 962 F.Supp. 1254
 - attorney's fees should be adequate to promote
 - Feuerstein v. Burns (S.D. Cal. 1983) 569 F.Supp. 271
 - fees paid directly to plaintiff's counsel by defendant pursuant to ADEA's fee-shifting provision is taxable income to plaintiff
 - Sinyard v. Commissioner of Internal Revenue (9th Cir. 2001) 268 F.3d 756
- defendant must show that original suit frivolous to recover
 - Fogerty v. Fantasy (1994) 114 S.Ct. 1023
- defendants entitled to attorney's fees even though plaintiffs dismissed appeal
 - Wilkerson v. Sullivan (2002) 99 Cal.App.4th 443 [121 Cal.Rptr.2d 275]
- entitled to attorney's fees even without formal judgment
 - Rutherford v. Pitchess (9th Cir. 1983) 713 F.2d 1416

entitled to award of attorney's fees where sum of jury damage award and defendant's post-settlement offer exceed defendant's pre-trial settlement offer

Mesa Forest Products Inc. v. St. Paul Mercury Insurance Co. (1999) 73 Cal.App.4th 324 [86 Cal.Rptr.2d 398]

fees awards in federal securities fraud actions must be reasonable in relation to plaintiffs' recovery

Powers v. Eichen (9th Cir. 2000) 229 F.3d 1249

homeowner association dispute over election of board of directors

Kaplan v. Fairway Oaks Homeowners Ass'n (2002) 98 Cal.App.4th 715 [120 Cal.Rptr.2d 158]

legal malpractice matter

Loube v. Loube (1998) 64 Cal.App.4th 421 [74 Cal.Rptr.2d 906]

may seek attorney's fees notwithstanding an invalid contract

Yuba Cypress Housing Partners, Ltd. v. Area Developers

(2002) 98 Cal.App.4th 1077 [120 Cal.Rptr.2d 273]

need not be named in contract to be entitled to fees

Plemon v. Nelson (1983) 148 Cal.App.3d 720 [190 Cal.Rptr. 196]

no prevailing party status

Jue v. Patton (1995) 33 Cal.App.4th 456 [39 Cal.Rptr.2d 364]

Escobar v. Bowen (9th Cir. 1988) 857 F.2d 644

Bankes v. Lucas (1992) 9 Cal.App.4th 365

-de minimus damages award merits de minimus fee award

Choate v. County of Orange (2001) 86 Cal.App.4th 312 [103 Cal.Rptr.2d 339]

-defendant who successfully completed diversion program in exchange for dismissal of charges not entitled to attorney fees

U.S. v. Campbell (9th Cir. 2002) 291 F.3d 1169

-voluntary dismissal

Del Cerro Mobile Estates v. Proffer (2001) 87 Cal.App.4th 943 [105 Cal.Rptr.2d 5]

-voluntary dismissal of suit against defendant did not necessarily establish defendant's entitlement to attorney's fees as prevailing party

Topanga and Victory Partners v. Toghia (2002) 103 Cal.App.4th 775 [127 Cal.Rptr.2d 104]

Galan v. Wolfriver Holding Corporation (2000) 80 Cal.App.4th 1124 [96 Cal.Rptr.2d 112]

petition for relief from fee judgment permitted if underlying merits of judgment is reversed and party has paid adversary's attorney fees

California Medical Association v. Shalala (9th Cir. 2000) 207 F.3d 575

prevailing party in preliminary injunction entitled to attorney fees

Watson v. County of Riverside (9th Cir. 2002) 300 F.3d 1092

proper to award attorney fees to defendant attorney even though he was representing himself

Laborde v. Aronson (2001) 92 Cal.App.4th 459 [112 Cal.Rptr.2d 119]

recovery under purchase and sale agreements

The 3250 Wilshire Blvd. Building v. W.R. Grace and Co. (1993) 990 F.2d 487

Pacific Preferred Properties v. Moss (1999) 71 Cal.App.4th 1456 [84 Cal.Rptr.2d 500]

settlement agreement

Oliver v. Bradshaw (1999) 68 Cal.App.4th 1515

trial court must adequately explain the basis for the attorney fees award in a federal securities fraud action

Powers v. Eichen (9th Cir. 2000) 229 F.3d 1249

under Civ. Code section 1717

PLCM Group, Inc. v. Drexler (2000) 22 Cal.4th 1084 [95 Cal. Rptr.2d 198] as modified (June 2, 2000)

First Security Bank of California, N.A. v. Paquet (2002) 98 Cal.App.4th 468 [119 Cal.Rptr.2d 787]

Mix v. Tumanjan Development Corp. (2002) 102 Cal.App.4th 1318 [126 Cal.Rptr.2d 267]

Silver v. Boatwright Home Inspection, Inc. (2002) 97 Cal.App.4th 443 [118 Cal.Rptr.2d 475]

Topanga and Victory Partners v. Toghia (2002) 103 Cal.App.4th 775 [127 Cal.Rptr.2d 104]

Wong v. Thrifty Corp. (2002) 97 Cal.App.4th 261 [118 Cal.Rptr.2d 276]

Del Cerro Mobile Estates v. Proffer (2001) 87 Cal.App.4th 943 [105 Cal.Rptr.2d 5]

Pacific Custom Pools, Inc. v. Turner Construction Co. (2000) 79 Cal.App.4th 1254 [94 Cal.Rptr.2d 756]

Oliver v. Bradshaw (1999) 68 Cal.App.4th 1515

Excess Electronix v. Heger Realty Corp. (1998) 64 Cal.App.4th 698 [75 Cal.Rptr.2d 376]

Peter L. Adam v. Linda C. Powers (1995) 31 Cal.App.4th 708 [37 Cal.Rptr. 2d 195]

Moallem v. Coldwell Banker Commercial Group (1994) 25 Cal.App.4th 1827 [31 Cal.Rptr.2d 253]

Brusso v. Running Springs Country Club (1991) 228 Cal.App.3d 92

-attorney fees may be awarded to attorneys who represent each other in fee dispute with client that attorneys jointly represented

Farmers Insurance Exchange v. Law Offices of Conrado Joe Sayas, Jr. (9th Cir. 2001) 250 F.3d 1234

-attorney represented by other members of his law firm is entitled to recover attorney fees where the representation involved the attorney's personal interests and not those of the firm

Gilbert v. Master Washer & Stamping Co., Inc. (2000) 87 Cal.App.4th 212 [104 Cal.Rptr.2d 461]

under Clean Water Act

Morris-Smith v. Moulton Niguel Water District (2000) 44 F.Supp.2d 1084

under Equal Access to Justice Act

U.S. v. Real Property at 2659 Roundhill Drive, Alamo, California (9th Cir. 2002) 283 F.3d 1146

U.S. v. Real Property Known as 22249 Dolorosa Street (9th Cir. 2000) 190 F.3d 977

under Labor Code § 98.2

-former employee's attorneys entitled to attorney's fees even if they represent party without charge

Lolley v. Campbell (2002) 28 Cal.4th 367 [121 Cal.Rptr.2d 571]

-"more favorable judgement" test determines whether an appellant is "unsuccessful in the appeal"

Smith v. Rae-Venter Law Group (2002) 29 Cal.4th 345 [127 Cal.Rptr.2d 516]

under Penal Code § 1202.4(f)(3), trial court has authority to order a criminal defendant to pay restitution, including actual and reasonable attorney's fees directly to the victim

People v. Fulton (2002) 99 Cal.App.4th 1292 [121 Cal.Rptr.2d 828]

under Rees-Levering Auto Sales Financing Act

Damian v. Tamondong (1998) 65 Cal.App.4th 1115 [77 Cal.Rptr.2d 262]

under Song-Beverly Consumer Warranty Act

Nightingale v. Hyundai Motor America (1994) 31 Cal.App.4th 99 [37 Cal.Rptr.2d 149]

under 29 U.S.C. § 621 et seq.

-fees paid directly to plaintiff's counsel by defendant pursuant to ADEA's fee-shifting provision is taxable income to plaintiff

Sinyard v. Commissioner of Internal Revenue (9th Cir. 2001) 268 F.3d 756

Workers' Compensation

Summers, et al. v. Newman, et al. (1999) 20 Cal.4th 1021 [86 Cal.Rptr.2d 303]

-non-attorney's law firm representative of injured employee at workers' compensation proceeding may not be entitled to same fees as licensed attorney

99 Cents Only Stores v. Workers' Compensation Appeals Board (2000) 80 Cal.App.4th 644 [95 Cal.Rptr.2d 659]

Prior attorney's claim for fees

Baca v. State Bar (1990) 52 Cal.3d 294 [276 Cal.Rptr. 169]

Shalant v. State Bar (1983) 33 Cal.3d 485 [189 Cal. Rptr. 374]

no violation found when successor attorney fails to reserve funds in trust to satisfy the prior attorney

In the Matter of Respondent H (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 234

Private Attorney General Doctrine

calculation for lodestar or touchstone fees

-amount and items allowable – factors

In re Washington Public Power Supply Systems Securities Litigation (1994) 19 F.3d 1291

Ketchum v. Moses (2001) 24 Cal.4th 1122 [104 Cal.Rptr.2d 377]

Press v. Lucky Stores, Inc. (1983) 34 Cal.3d 311, 317-318 [193 Cal.Rptr. 900, 667 P.2d 704]

Greene v. Dillingham Construction, N.A., Inc. (2002) 101 Cal.App.4th 418 [124 Cal.Rptr.2d 250]

-based on time spent and reasonable hourly compensation

San Bernardino Valley Audubon Society, Inc. v. County of San Bernardino (1984) 155 Cal.App.3d 738, 754-756 [202 Cal.Rptr. 423]

-cannot be based on contingent fee – must be based on time spent on base

Gold v. Schwab (1986) 187 Cal.App.3d 1297, 1313-1314

-contingency fee agreement cannot justify lowering an otherwise reasonable lodestar fee

Quesada v. Thomason (9th Cir. 1988) 850 F.2d 537

-discovery may be allowed by the trial court

Save Open Space Santa Monica Mountains v. Superior Court (County of Los Angeles) (2000) 84 Cal.App.4th 235 [100 Cal.Rptr.2d 725]

-fee award subsumes novelty, experience, complexity, and results obtained

Hunt v. County of Los Angeles (1988) 203 Cal.App.3d 87 [249 Cal.Rptr. 660]

-limited success against defendants may not warrant reduction of lodestar

Corder v. Gates (9th Cir. 1991) 947 F.2d 374

-multiplier to lodestar ensures counsel's acceptance of civil rights contingency cases

Bernardi v. Yeutter (9th Cir. 1991) 942 F.2d 562

-multiplier to lodestar no necessary to attack lawyers to meritorious contingency fee cases

Gomez v. Gates (1992) 804 F.Supp. 69

-objective

Hull v. Rossi (1993) 13 Cal.App.4th 1763 [17 Cal.Rptr.2d 457]

-over billing by attorney

Gates v. Deukmejian (9th Cir. 1992) 977 F.2d 1300

-state obligation to reimburse county

County of Fresno v. Lehman (1991) 229 Cal.App.3d 340 [280 Cal.Rptr. 310]

-trial court must make findings to show lodestar calculation applied in welfare benefits litigation

Burkholder v. Kizer (1991) 235 Cal.App.3d 297

-trial court need not issue a statement of decision if record reflects lodestar or touchstone method was used

Rebney v. Wells Fargo Bank, N.A. (1991) 232 Cal.App.3d 1344

-under Civil Code section 1717

Brusso v. Running Springs Country Club (1991) 228 Cal.App.3d 92

causal connection between lawsuit and relief obtained required

Westside Community for Independent Living, Inc. v. Obledo (1983) 33 Cal.3d 348 [188 Cal.Rptr. 873, 657 P.2d 365]

Boccatto v. City of Hermosa Beach (1984) 158 Cal.App.3d 804 [204 Cal.Rptr. 727]

criteria for awarding

Families Unafraid to Uphold Rural El Dorado County v. El Dorado County Board of Supervisors (2000) 79 Cal.App.4th 505 [94 Cal.Rptr.2d 205]

Leiserson v. City of San Diego (1988) 202 Cal.App.3d 725 [249 Cal.Rptr. 28]

denied when no important right or interest was vindicated by the plaintiff's action

Williams v. San Francisco Board of Permit Appeals (1999) 74 Cal.App.4th 961 [88 Cal.Rptr.2d 565]

King v. Lewis (1990) 219 Cal.App.3d 552 [268 Cal.Rptr. 277]

Brennan v. Board of Supervisors (1984) 153 Cal.App.3d 193

discretion of trial court

Gold v. Schwab (1986) 187 Cal.App.3d 1297, 1311

fee award improper where de minimus public benefit

Save Open Space Santa Monica Mountains v. Superior Court (County of Los Angeles) (2000) 84 Cal.App.4th 235 [100 Cal.Rptr.2d 725]

Mandicino v. Maggard (1989) 210 Cal.App.3d 1413 [258 Cal.Rptr. 7]

fees granted for action that served to vindicate an important right

-factors considered under CCP § 1021.5

Families Unafraid to Uphold Rural El Dorado County v. El Dorado County Board of Supervisors (2000) 79 Cal.App.4th 505 [94 Cal.Rptr.2d 205]

State of California v. County of Santa Clara (1983) 142 Cal.App.3d 608, 614-616 [191 Cal.Rptr. 204]

-fee awarded under CCP § 1021.5 – rationale for award

Families Unafraid to Uphold Rural El Dorado County v. El Dorado County Board of Supervisors (2000) 79 Cal.App.4th 505 [94 Cal.Rptr.2d 205]

Satrap v. Pacific Gas & Electric (1996) 42 Cal.App.4th 72 [49 Cal.Rptr.2d 348]

Hospital Systems, Inc. v. Office of Statewide Health, Planning and Development (1994) 25 Cal.App.4th 1686

Urbaniak v. Newton (1993) 19 Cal.App. 4th 1837 [24 Cal.Rptr.2d 333]

Christward Ministry v. County of San Diego (1993) 13 Cal.App.4th 31

Zambrano v. Oakland Unified School District (1991) 229 Cal.App.3d 802 [280 Cal.Rptr. 454]

Bartling v. Glendale Adventist Medical Center (1986) 184 Cal.App.3d 97, 102-103 [228 Cal.Rptr. 847]

--award of fees improper when plaintiff has personal interest or individual stake in the matter

Williams v. San Francisco Board of Permit Appeals (1999) 74 Cal.App.4th 961 [88 Cal.Rptr.2d 565]

--non-pecuniary aesthetic interest are sufficient to block an award of attorney's fees otherwise appropriate under section 1021.5

Williams v. San Francisco Board of Permit Appeals (1999) 74 Cal.App.4th 961 [88 Cal.Rptr.2d 565]

-fees and costs awarded for sheriff's distribution of anti-Bird material

California Common Cause v. Duffy (1987) 200 Cal.App.3d 730 [246 Cal.Rptr. 285]

-indirect benefit not sufficient

Smith v. County of Fresno (1990) 219 Cal.App.3d 532 [268 Cal.Rptr. 351]

-limited to successful litigants utilizing judicial process

Crawford v. Board of Education of the City of Los Angeles (1988) 200 Cal.App.3d 1397 [246 Cal.Rptr. 806]

-on remand, trial court to reevaluate fee award in light of party's success on appeal

Guardians of Turlock's Integrity v. Turlock City Council (1983) 149 Cal.App.3d 584, 601

includes fees for appeal

Schmid v. Lovette (1984) 154 Cal.App.3d 466, 480 [201 Cal.Rptr. 424]

must be reconsidered on remand of case

Guardians of Turlock's Integrity v. Turlock City Council (1983) 149 Cal.App.3d 584, 601-602, mod. 150 Cal.App.3d 1141c

- prison inmate's case, successfully litigated
Daniels v. McKinney (1983) 146 Cal.App.3d 42 [193 Cal.Rptr. 842]
- statutory authority
No Oil, Inc. v. City of Los Angeles (1984) 153 Cal.App.3d 998, 1005 [200 Cal.Rptr. 768]
- Pro bono
 appointment of counsel for incarcerated, indigent civil defendant
Yarbrough v. Superior Court (1985) 39 Cal.3d 197 [216 Cal.Rptr. 425]
- court impressing attorney to represent pro bono an indigent client denies attorney equal protection under Fourteenth Amendment
Cunningham v. Superior Court (1986) 177 Cal.App.3d 336, 347-349 [222 Cal.Rptr. 854]
- partial pro bono fee arrangement did not preclude award of fees under C.C.P. § 425.16
Rosenaur v. Scherer (2001) 88 Cal.App.4th 260 [105 Cal.Rptr.2d 674]
- public service obligation of the bar
Bradshaw v. U.S. Dist. Court (9th Cir. 1984) 742 F.2d 515, 518-519
Peter L. Adam v. Linda C. Powers (1995) 31 Cal.App.4th 708 [37 Cal.Rptr.2d 195]
Moallem v. Coldwell Banker Commercial Group (1994) 25 Cal.App.4th 1827 [31 Cal.Rptr.2d 253]
Hambrose Reserve, Ltd. v. Faltz (1992) 9 Cal.App.4th 129
- when attorney knows pro bono client has sufficient funds to pay legal fees
 SD 1983-6
- Probate
 attorney fees denied where a trustee voluntarily becomes a party to a contest between the beneficiaries over who should control and benefit from the trust
Whittlesey v. Aiello (2002) 104 Cal.App.4th 1221 [128 Cal.Rptr.2d 742]
- extraordinary attorneys' fees for settlement of claim of estate of decedent determined by probate court, not settlement agreement
Estate of Baum (1989) 209 Cal.App.3d 744 [257 Cal.Rptr. 566]
- ordinary/extraordinary fees distinguished
Estate of Gilkison (1998) 65 Cal.App.4th 1443, fn. 1 [77 Cal.Rptr. 2d 463]
Estate of Hilton (1996) 44 Cal.App.4th 890, 895
- petition for reimbursement of attorney's fees not subject to 60-day limit
Holloway v. Edwards (1998) 68 Cal.App.4th 94 [80 Cal.Rptr.2d 166]
- probate code permits attorney's fees for out-of-state attorney rendering services for a California estate
Estate of Condon (1998) 65 Cal.App.4th 1138 [76 Cal.Rptr.2d 922]
- sanctions for filing frivolous appeal on denial of extraordinary fee request
Estate of Gilkison (1998) 65 Cal.App.4th 1443 [77 Cal.Rptr. 2d 463]
- Probate fee, statutory scale
 See Probate Code section 10800
Estate of Hilton v. Conrad N. Hilton (1996) 44 Cal.App.4th 890 [52 Cal.Rptr.2d 491]
- See Probate Code section 10810
 out-of-state attorney entitled to statutory and extraordinary fees as deemed reasonable by the court
Estate of Condon (1998) 65 Cal.App.4th 1138 [76 Cal.Rptr.2d 922]
- discharged attorney not entitled to recover the reasonable value of services rendered up to discharge where probate court approval of fees was required, but not obtained
In the Matter of Phillips (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 315
- Promissory note or deed of trust
 attorney take as security for fees
 CAL 1981-62, LA 492, SF 1997-1
- Public defenders
 reimbursable cost of public defender's service is actual cost to county, not reasonable attorneys' fees
People v. Cruz (1989) 209 Cal.App.3d 560 [257 Cal.Rptr. 417]
- Public interest case
 attorney's fees paid by losing party in
 Code of Civil Procedure section 1021.5
- fee shifting
Ketchum v. Moses (2001) 24 Cal.4th 1122 [104 Cal.Rptr.2d 377]
Serrano v. Priest (1977) 20 Cal.3d 25 [141 Cal.Rptr. 315, 569 P.2d 1303]
- Quantum meruit
 attorney's lien not payable in circumvention of the Bankruptcy Code
In re Monument Auto Detail, Inc. (9th Cir. BAP 1998) 226 B.R. 219 [33 Bankr.Ct.Dec. 419]
- award upheld and not prejudicial even though trial court erred in voiding the contingent fee contract
Franklin v. Appel (1992) 8 Cal.App.4th 875
- discharged attorney attempts to enforce contingent fee contract made with substituted counsel
Kallen v. Delug (1984) 157 Cal.App.3d 940 [203 Cal.Rptr. 879]
- discharged attorney entitled to reasonable value of services
In the Matter of Feldsott (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 754
Fracasse v. Brent (1972) 6 Cal.3d 784, 792 [100 Cal.Rptr. 385, 494 P.2d 9]
In the Matter of Respondent H (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 234
- division of fees when amount allowed is insufficient for quantum meruit claims of past and existing counsel
Spires v. American Bus Lines (1984) 158 Cal.App.3d 206, 216-217 [204 Cal.Rptr. 531]
- no obligation for successor attorney to reserve funds in trust to satisfy the prior attorney's lien
Shalant v. State Bar (1983) 33 Cal.3d 485 [189 Cal.Rptr. 374]
In the Matter of Respondent H (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 234
- partnership entitled to
 -for unfinished cases taken by departing partner
Cazares v. Saenz (1989) 208 Cal.App.3d 279 [256 Cal.Rptr. 209]
Champion v. Superior Court (1988) 201 Cal.App.3d 777
- substituted-out attorney may recover for full performance under employment contract
Di Loreto v. O'Neill (1991) 1 Cal.App.4th 149 [1 Cal.Rptr.2d 636]
- succeeding attorney's duty to advise client concerning prior attorney's quantum meruit claim
 SF 1989-1
- succeeding attorney's duty to honor withdrawing attorney's lien
Pearlmutter v. Alexander (1979) 97 Cal.App.3d Supp. 16, 18-20 [158 Cal.Rptr. 762]
- under contingent fee contract, discharged attorney limited to quantum meruit recovery
Spires v. American Bus Lines (1984) 158 Cal.App.3d 211, 215-216 [204 Cal.Rptr. 531]
- under occurrence of contingency, discharged attorney entitled to quantum meruit recovery for reasonable value of services
Ramirez v. Sturdevant (1994) 21 Cal.App.4th 904 [26 Cal.Rptr.2d 554]
Hensel v. Cohen (1984) 155 Cal.App.3d 563, 567 [202 Cal.Rptr. 85]

- voluntary withdrawal without cause forfeits recovery
Cal Pak Delivery, Inc. v. United Parcel Service (1997) 52 Cal.App.4th 1 [60 Cal.Rptr.2d 207]
Ramirez v. Sturdevant (1994) 21 Cal.App.4th 904, 915 [26 Cal.Rptr.2d 554]
Estate of Falco (1986) 188 Cal.App.3d 1004 [233 Cal.Rptr. 807]
- where services have been rendered under a contract which is unenforceable because it was not in writing
Iverson, Yoakum, Papiano & Hatch v. Berwald (1999) 76 Cal.App.4th 990 [90 Cal.Rptr.2d 665]
- Reasonable number of hours times reasonable fee (community standards) for civil rights cases
White v. City of Richmond (9th Cir. 1983) 713 F.2d 458
- Reasonable only
 despite contract when contract is invalid
Denton v. Smith (1951) 101 Cal.App.2d 841 [226 P.2d 723]
 entitled if discharged
In re Aesthetic Specialties, Inc. (Bkrptcy.App.Cal. 1984) 37 B.R. 679
 fees awards in federal securities fraud actions must be reasonable in relation to plaintiffs' recovery
Powers v. Eichen (9th Cir. 2000) 229 F.3d 1249
- Reasonableness of
 59 A.L.R.3d 152; 58 A.L.R.3d 235; 58 A.L.R.3d 201; 57 A.L.R.3d 584; 57 A.L.R.3d 550; 57 A.L.R.3d 475
 approach factors considered
Shannon v. North Counties Trust Ins. Co. (1969) 270 Cal.App.2d 686, 689 [76 Cal.Rptr. 7]
Cline v. Zappettini (1955) 131 Cal.App.2d 723, 728 [281 P.2d 35]
Matthiesen v. Smith (1936) 16 Cal.App.2d 479, 483 [60 P. 873]
 -whether contingent fee contract is unconscionable must be determined on situation as it appeared to parties at time it was entered into
Swanson v. Hempstead (1944) 64 Cal.App.2d 681, 688-689 [149 P.2d 404]
- bankruptcy
In re County of Orange (C.D. Cal. 1999) 241 B.R. 212 [4 Cal. Bankr. Ct. Rep. 117]
- class action
Class plaintiffs v. Jaffe & Schlesinger, P.A. (9th Cir. 1994) 19 F.3d 1306
Lealao v. Beneficial California Inc. (2000) 82 Cal.App.4th 19 [97 Cal.Rptr.2d 797]
Jutkowitz v. Bourns, Inc. (1981) 118 Cal.App.3d 102, 108 [173 Cal.Rptr. 248]
Werchull v. United California Bank (1978) 85 Cal.App.3d 981, 1005 [149 Cal.Rptr. 829]
 -fees awards in federal securities fraud actions must be reasonable in relation to plaintiffs' recovery
Powers v. Eichen (9th Cir. 2000) 229 F.3d 1249
- contingent
 Rule 2-107, Rules of Professional Conduct (operative until May 26, 1989)
 Rule 4-200, Rules of Professional Conduct (operative as of May 27, 1989)
 -because contract gambles on result, it may ask for greater compensation than would otherwise be reasonable
Ketchum v. Moses (2001) 24 Cal.4th 1122 [104 Cal.Rptr.2d 377]
Rader v. Thrasher (1962) 57 Cal.2d 244, 253 [18 Cal.Rptr. 736, 368 P.2d 360]
Estate of Raphael (1951) 103 Cal.App.2d 792, 796 [230 P.2d 436]
 -contract presumptively invalid where attorney did not explain and client did not understand contract
Denton v. Smith (1951) 101 Cal.App.2d 841, 844 [226 P.2d 723]
- court construes ambiguous contract language to provide for reasonable compensation
Jackson v. Campbell (1932) 215 Cal. 103, 106 [9 P.2d 845]
 -court may consider "open question" of reasonableness of contingent fee charged – factors considered
Blattman v. Gadd (1931) 112 Cal.App. 76, 92-93 [296 P. 681]
 -evidence on reasonableness inadmissible where only dispute concerns whether agreement even exists
Ellis v. Woodburn (1891) 89 Cal. 129, 133 [26 P. 963]
 -evidence supports find that fee agreement was fair and equitable – factors considered
Hendricks v. Sefton (1960) 180 Cal.App.2d 526, 532 [4 Cal.Rptr. 218]
Estate of Raphael (1951) 103 Cal.App.2d 792, 796 [230 P.2d 436]
 -reasonableness judged by situation as it appeared to parties at time contract was entered
Youngblood v. Higgins (1956) 146 Cal.App.2d 350, 352 [303 P.2d 637]
Swanson v. Hempstead (1944) 64 Cal.App.2d 681, 688 [149 P.2d 404]
- corporations
Fed Mart Corp. v. Pell Enterprises, Inc. (1980) 111 Cal.App.3d 215, 224 [168 Cal.Rptr. 525]
- dissolution proceedings
 -attorney's fees not matter of right but rests in discretion of trial court – standard of review by appellate court
Hicks v. Hicks (1967) 249 Cal.App.2d 964, 969 [58 Cal.Rptr. 63]
 -award of attorney's fees made at inception of divorce proceedings
Collins v. Welsh (1934) 2 Cal.App.2d 103, 109-110 [37 P.2d 505]
 -award of excessive fee
Howard v. Howard (1956) 141 Cal.App.2d 233, 244 [296 P.2d 592]
 -burden of and standard for establishing abuse of discretion
Crevolin v. Crevolin (1963) 217 Cal.App.2d 565, 572 [31 Cal.Rptr. 622]
 -circumstances affecting award – court may consider financial conditions of parties
Pope v. Pope (1951) 107 Cal.App.2d 537, 539-540 [237 P.2d 312]
 -court erred in accepting commissioner's findings as to attorney fees and costs where commissioner provided no notice to affected attorney and had recused himself for bias
In re Marriage of Kelso (1998) 67 Cal.App.4th 374 [79 Cal.Rptr.2d 39]
 -court may determine fee from its own experience – no testimony necessary
Lipka v. Lipka (1963) 60 Cal.2d 472, 479-480 [35 Cal.Rptr. 71]
 -discretion and experience to determine fees vested in trial court
Thiesen v. Keough (1931) 115 Cal.App. 353, 362 [1 P.2d 1015]
Busch v. Busch (1929) 99 Cal.App. 198, 201 [278 P. 456]
 -factors considered by trial court
Dietrich v. Dietrich (1953) 41 Cal.2d 497, 506 [261 P.2d 269]
 -family law court fee awards must be reasonable and based on factual showings
In re Marriage of Keech (1999) 75 Cal.App.4th 860 [89 Cal.Rptr.2d 525]
 -inadequate fee award shows abuse of discretion
Hurst v. Hurst (1964) 227 Cal.App.2d 859, 871-872 [39 Cal.Rptr. 162]

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- modification of court order allowing attorney's fee – circumstances affecting right to and amount of allowance
Warner v. Warner (1950) 34 Cal.2d 838, 841-842 [215 P.2d 20]
- modification of custody award – determination of reasonable attorney's fees
Straub v. Straub (1963) 213 Cal.App.2d 792, 799-800 [29 Cal.Rptr. 183]
- no abuse of discretion – factors considered by appeals court on review
In Re Marriage of Aylesworth (1980) 106 Cal.App.3d 869, 879-880 [165 Cal.Rptr. 389]
- reasonable fees – factors considered by trial court
Anthony v. Anthony (1968) 156 Cal.App.2d 157-158 [66 Cal.Rptr. 420]
- reasonableness is a question of fact in discretion of trial court
Jones v. Jones (1955) 135 Cal.App.2d 52, 64 [286 P.2d 908]
- reasonableness of attorney's fee – discretion of trial court – factors considered – standard of review
*In Re Marriage of Lopez (1974) 38 Cal.App.3d 93, 113-114 [113 Cal.Rptr. 58]
- reasonableness of attorney's fees -evidence – review by appellate court
In re Marriage of Keech (1999) 75 Cal.App.4th 860 [89 Cal.Rptr.2d 525]
In Re Marriage of Cueva (1978) 86 Cal.App.3d 290, 297-304 [149 Cal.Rptr. 918]
Smith v. Smith (1969) 1 Cal.App.3d 952, 958 [82 Cal.Rptr. 282]
- test for determining reasonable attorney's fees
Palmquist v. Palmquist (1963) 212 Cal.App.2d 322, 338-339 [27 Cal.Rptr. 744]
- eminent domain proceedings
 - may include factors other than hourly rates charged by top law firms
City of Oakland v. The Oakland Raiders (1988) 203 Cal.App.3d 78 [249 Cal.Rptr. 606]
 - scope of appellate review
State of California v. Westover Co. (1956) 140 Cal.App.2d 447, 450 [295 P.2d 96]
 - trial judge has discretion to set reasonable fee – factors considered – appellate standard of review
Mountain View Union High School District v. Ormonde (1961) 195 Cal.App.2d 89, 96 [15 Cal.Rptr. 461]
County of Riverside v. Brown (1939) 30 Cal.App.2d 747, 749-750 [87 P.2d 60]
People v. Thompson (1935) 5 Cal.App.2d 668, 670-672 [43 P.2d 606]
*Los Angeles v. Los Angeles-Inyo Farms Co. (1933) 134 Cal.App. 268, 274-275 [25 P.2d 224]
 - under Code Civ. Proc. § 1255, trial courts experience allows it to set reasonable value of attorney's services
California Interstate Telephone Co. v. Prescott (1964) 228 Cal.App.2d 408, 411 [39 Cal.Rptr. 472]
- fee stipulation
 - limited by reasonableness requirement
In re 268 Limited (9th Cir. BAP 1988) 85 B.R. 101
- filiation proceeding
Berry v. Chaplin (1946) 74 Cal.App.2d 669, 678 [169 P.2d 453]
- injunctions
Moore v. Maryland Casualty Co. (1929) 100 Cal.App. 658, 666 [280 P. 1008]
- malicious prosecution
Peebler v. Olds (1945) 71 Cal.App.2d 382, 389 [162 P.2d 953]
Mills v. Friedman (1931) 119 Cal.App. 74, 81 [5 P.2d 901]
- mortgage foreclosure proceedings
 - amount of fee within discretion of trial court – factors considered
Craw v. Craig (1914) 168 Cal. 351, 352 [143 P. 604]
Patten v. Pepper Hotel Co. (1908) 153 Cal. 460, 471-472 [96 P. 296]
 - fee award not inadequate – factors considered in determining reasonable fee
Nevin v. Salk (1975) 45 Cal.App.3d 331, 343-344 [119 Cal.Rptr. 370]
 - no evidence of value of services necessary for trial court to fix reasonable fee
Woodward v. Brown (1897) 119 Cal. 283, 309 [51 P.2d 542]
 - where fee issue properly put before jury, jury may fix fee without independent testimony as to reasonableness
Liebenguth v. Priester (1944) 64 Cal.App.2d 343, 345 [148 P.2d 893]
- offer opinion about reasonableness of other lawyer's fee
LA 311 (1969)
- partition proceeding
Watson v. Sutro (1894) 103 Cal. 169, 171 [37 P. 201]
- pro bono [See Appointment of attorney by court, pro bono. Duties of attorney, pro bono.]
- probate proceedings
 - Estate of Condon (1998) 65 Cal.App.4th 1138 [76 Cal.Rptr.2d 922]
LA 68 (1932), LA 66 (1931)
 - court has discretion knowledge and experience to set reasonable fee without hearing evidence
Estate of Straus (1904) 144 Cal. 553, 557 [77 P. 1122]
 - court has power to set fees independent of expert testimony
Estate of Duffill (1922) 188 Cal. 536, 552-554 [206 P. 42]
 - evidence considered by jury in fixing reasonable fee
Mitchell v. Towne (1939) 31 Cal.App.2d 259, 265-267 [87 P.2d 908]
 - evidence on reasonable value of services offered by witness attorneys
Freese v. Pennie (1895) 110 Cal. 467, 468-470 [42 P. 978]
 - fees of attorneys for executors, administrators and guardians fixed by court – court has discretionary power to set fee
Pennie v. Roach (1892) 94 Cal. 515, 518-519 [29 P. 956, 30 P. 106]
 - opinions of professional witnesses not binding on court
Estate of Dorland (1883) 63 Cal. 218, 282
 - reasonable fee primarily question of fact for trial court – expert testimony unnecessary – appellate standard of review
Bunn v. Lucas, Pino & Lucas (1959) 172 Cal.App.2d 450, 468 [342 P.2d 508]
Estate of Schnell (1947) 82 Cal.App.2d 170, 175-176 [185 P.2d 854]
 - superior court has discretion to determine fee – standard of review by higher court
Estate of Adams (1901) 131 Cal. 415, 418-419 [63 P. 838]
- public interest litigation
 - awarding fees under "substantial benefit rule" – factors considered in setting reasonable fees
*Mandel v. Lackner (1979) 92 Cal.App.3d 747, 756-757 [155 Cal.Rptr. 269]
Coalition for L.A. County Planning etc. Interest v. Board of Supervisors (1977) 76 Cal.App.3d 241, 251 [142 Cal.Rptr. 766]
 - discretion of trial court to set fees
Excelsior etc. School Dist. v. Lautrup (1969) 269 Cal.App.2d 434, 447 [74 Cal.Rptr. 835]

- trial court has unquestioned power to appraise value of services
 - Independent Iron Works, Inc. v. County of Tulare (1962) 207 Cal.App.2d 164, 167 [24 Cal.Rptr.361]
- trial judge in best position to determine value of services
 - appellate standard of review – factors considered
 - United Steelworkers of America v. Phelps Dodge Corp. (9th Cir. 1990) 896 F.2d 403
 - Serrano v. Priest (1977) 20 Cal.3d 25, 48-49 [141 Cal.Rptr. 315, 569 P.2d 1303]
- securities fraud action
 - fees awards in federal securities fraud actions must be reasonable in relation to plaintiffs' recovery
 - Powers v. Eichen (9th Cir. 2000) 229 F.3d 1249
 - trial court must adequately explain the basis for the award in a federal securities fraud action
 - Powers v. Eichen (9th Cir. 2000) 229 F.3d 1249
- to respective parties
 - In re Marriage of McNeill (1984) 160 Cal.App.3d 548, 560 [206 Cal.Rptr. 641]
- trusts
 - Crocker v. Crocker First National Bank of San Francisco (1943) 60 Cal.App.2d 725, 730 [141 P.2d 482]
- under 42 U.S.C. § 406(b) (social security benefits)
 - Gisbrecht v. Barnhart (2002) 535 U.S. 789 [122 S.Ct. 1817; 152 L.Ed.2d 996]
- welfare proceedings
 - Horn v. Swoap (1974) 41 Cal.App.3d 375, 384 [116 Cal.Rptr. 113]
- whole amount of the recovery
 - SD 1975-4
- Reduced to match award
 - Chromalloy American Corp. v. Fischmann (9th Cir. 1983) 716 F.2d 683
- Referee's
 - Code of Civil Procedure section 1023
- Referral fees [See Division of fees.]
 - Rules of Professional Conduct 2-200
- Refund of fee advanced
 - In the Matter of Freydl (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 349
 - attorney who undertakes representation of conflicting interests without consent must refund fees received after conflict arose
 - Blecher & Collins v. Northwest Airlines, Inc. (C.D. Cal. 1994) 858 F.Supp. 1442
 - if unearned, except true retainer fee
 - United States v. Veon (1982) 549 F.Supp. 274, 283
 - In the Matter of Phillips (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 315
- Represent in settlement when fee owed by client comes out of settlement
 - SD 1975-4
- Represent self and co-counsel re contingent fee assigned to third party
 - SD 1972-1
- Request for attorney's fees under Code of Civ. Proc. § 4370
 - standing to appeal denial of appeal
 - In re Marriage of Tushinsky (1988) 203 Cal.App.3d 136, mod. 203 Cal.App.3d 895e
- Retainer
 - In re Montgomery Drilling Co. (Bankr. Ct. E.D. Cal. 1990) 121 B.R. 32, 37
 - In re C & P Auto Transport, Inc. (Bankr. Ct. E.D. Cal. 1988) 94 Bankr. Rptr. 682, 687
 - Matthew v. State Bar (1989) 49 Cal.3d 784, 787-788
 - Baranowski v. State Bar (1979) 24 Cal.3d 153, 164, fn. 4
 - Knight v. Russ (1888) 77 Cal. 410, 412 [19 P. 698]
 - T & R Foods, Inc. v. Rose (1996) 47 Cal.App.4th Supp. 1, 7 [56 Cal.Rptr.2d 41]
 - In the Matter of Lais (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 907
 - In the Matter of Fonte (Review Dept. 1994) 2 Cal. State Bar Ct. Rptr. 752, 757
 - earned portion to be removed from trust account
 - SF 1973-14
 - paid by insurance broker to provide free wills to clients
 - SD 1976-6
- RICO
 - funds for retention of private counsel not exempted from forfeiture of drug defendant's assets
 - People v. Superior Court (Clements) (1988) 200 Cal.App.3d 491 [246 Cal.Rptr. 122]
- Sanctions [See Sanctions.]
 - Odbert v. United States (D.C. Cal. 1983) 576 F.Supp 825, 829
 - frivolous appeal challenging trial court's denial of an extraordinary fee request
 - Estate of Gilkison (1998) 65 Cal.App.4th 1443 [77 Cal.Rptr. 2d 463]
 - for delay
 - Thompson v. Tega-Rand Intern. (9th Cir. 1984) 740 F.2d 762, 764
 - Laborde v. Aronson (2001) 92 Cal.App.4th 459 [112 Cal.Rptr.2d 119]
- Security for
 - LA 492 (1998), LA 407 (1982), LA 398 (1982), LA(l) 1975-8, LA(l) 1972-2
 - client's property falsely reported as stolen
 - LA 329 (1972)
 - confession of judgment
 - Hulland v. State Bar (1972) 8 Cal.3d 440, 450
 - In the Matter of Lane (Review Dept. 1994) 2 Cal. State Bar Ct. Rptr. 735
 - financing fees by attorney recommending client take out mortgage loan on client's real property
 - CAL 2002-159
 - in general
 - SF 1997-1
 - insure collection of, inimical to client
 - Kallen v. Delug (1984) 157 Cal.App.3d 940, 951
 - lien as
 - CAL 1981-62
 - note secured by deed of trust
 - may be invalid if the encumbrance is on community property and the act of the client/spouse constitutes a prohibited unilateral transfer under Civil Code section 5127
 - Droegerv. Friedman, Sloan & Ross (1991) 54 Cal.3d 26 [283 Cal.Rptr. 584]
 - requires compliance with rule 3-300
 - Hawk v. State Bar (1988) 45 Cal.3d 589 [247 Cal.Rptr. 599]
 - In the Matter of Koehler (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 615
 - LA 492 (1998)
 - priority of attorney's liens
 - Cappa v. F & K Rock & Sand, Inc. (1988) 203 Cal.App.3d 172 [249 Cal.Rptr. 718]
- promissory note
 - Hulland v. State Bar (1972) 8 Cal.3d 440 [105 Cal.Rptr. 152]
 - CAL 1981-62, SF 1997-1
- security agreements
 - fee provision in security agreement did not serve as ground for awarding fees and costs to over-secured creditor following its successful defense of adversary preference proceeding in bankruptcy matter
 - In re Connolly (9th Cir. BAP 1999) 238 B.R. 475 [34 Bankr.Ct.Dec. 1219]
- trust deed
 - LA(l) 1975-8, LA(l) 1972-2
 - SD 1976-8

FEES

Settlement

condition settlement on plaintiff's attorney waiving fees
Evans v. Jeff D. (1986) 475 U.S. 717 [106 S.Ct. 1531]
 LA 445 (1987)
 employer entitled to attorney's fees from employee suing for employment discrimination where employee initiated litigation following signing of general release of all claims
Linsley v. Twentieth Century Fox Films Corp. (1999) 75 Cal.App.4th 762 [89 Cal.Rptr.2d 429]
 fees paid directly to plaintiff's counsel by defendant pursuant to ADEA's fee-shifting provision is taxable income to plaintiff
Sinyard v. Commissioner of Internal Revenue (9th Cir. 2001) 268 F.3d 756
 offer silent as to right to recover attorney's fees and costs does not constitute a waiver of that right
Ritzenthaler v. Fireside Thrift (2001) 93 Cal.App.4th 986 [113 Cal.Rptr.2d 579]
 structured settlement, use of
 CAL 1987-94
 trial court has jurisdiction to divide attorney fees between prior and current attorneys as part of minor's settlement approval
Padilla v. McClellan (2001) 93 Cal.App.4th 1100 [113 Cal.Rptr.2d 680]

SLAPP action

Ketchum v. Moses (2001) 24 Cal.4th 1122 [104 Cal.Rptr.2d 377]
Dowling v. Zimmerman (2001) 85 Cal.App.4th 1400 [103 Cal.Rptr.2d 174]
Kyle v. Carmon (1999) 71 Cal.App.4th 901 [84 Cal.Rptr.2d 303]

Splitting [See Division of fees.]

attorney conducting real estate business
 SD 1969-2
 with franchisor
 LA 423 (1983)

Sports service contracts

Business and Professions Code section 6106.7

Standards applicable to attorney's fees

Church of Scientology of California v. United States Postal Service (9th Cir. 1983) 700 F.2d 486

Statutory attorney's fees to prevailing party

Labotest, Inc. v. Bonta (9th Cir. 2002) 297 F.3d 892
U.S. v. Real Property Known as 22249 Dolorosa Street (9th Cir. 2000) 190 F.3d 977
Lolley v. Campbell (2002) 28 Cal.4th 367 [121 Cal.Rptr.2d 571]
Smith v. Rae-Venter Law Group (2002) 29 Cal.4th 345 [127 Cal.Rptr.2d 516]
Ketchum v. Moses (2001) 24 Cal.4th 1122 [104 Cal.Rptr.2d 377]
Kaplan v. Fairway Oaks Homeowners Ass'n (2002) 98 Cal.App.4th 715 [120 Cal.Rptr.2d 158]
Burge v. Dixon (1984) 152 Cal.App.3d 1120, 1128 [199 Cal.Rptr. 899]

client may not keep fees which are measured by and paid on account of attorney's services

Image Technical Services v. Eastman Kodak Co. (9th Cir. 1998) 136 F.3d 1354

Corporations Code section 317

-outside counsel retained by corporation to defend against litigation was not agent of corporation for purposes of statute indemnifying persons sued by reason of such agency for defense costs

Channel Lumber Co. Inc. v. Simon (2000) 78 Cal.App.4th 1222 [93 Cal.Rptr.2d 482]

district court may review attorney's "billing judgment" and reduce fees if some tasks should have been delegated to associate or paralegal

MacDougal v. Catalyst Nightclub (1999) 58 F.Supp.2d 1101

Equal Access Act

Hoopa Valley Tribe v. Watt (N.D. Cal. 1983) 569 F.Supp. 943

hours that are not properly billed to one's client are also not properly billed to one's adversary pursuant to statutory authority

MacDougal v. Catalyst Nightclub (1999) 58 F.Supp.2d 1101

under Penal Code § 1202.4(f)(3), victim of convicted drunk driver was entitled to restitution for attorney services incurred to recover both economic and noneconomic damages

People v. Fulton (2002) 99 Cal.App.4th 1292 [121 Cal.Rptr.2d 828]

SLAPP action

Wilkerson v. Sullivan (2002) 99 Cal.App.4th 443 [121 Cal.Rptr.2d 275]

Dowling v. Zimmerman (2001) 85 Cal.App.4th 1400 [103 Cal.Rptr.2d 174]

Kyle v. Carmon (1999) 71 Cal.App.4th 901 [84 Cal.Rptr.2d 303]

Statutory limits for litigation of prison lawsuits

limitations for services performed before and after effective date of Prison Litigation Reform Act

Madrid v. Gomez (9th Cir. 1999) 190 F.3d 990

limitations on attorney fees for post-judgment monitoring services performed after effective date of Prison Litigation Reform Act

Martin v. Hadix (1999) 527 U.S. 343 [119 S.Ct. 1998]

Stipulated attorneys' fees

Workers' Compensation matter

Price v. Workers' Compensation Appeals Board (1992) 10 Cal.App.4th 959 [12 Cal.Rptr.2d 831]

Stocks pledged to secure fees improperly sold

Hartford v. State Bar (1990) 50 Cal.3d 1139 [791 P.2d 598]

Stock promise to attorney is unenforceable because of a violation of rule 3-300

Passante, Jr. v. McWilliam (1997) 53 Cal.App.4th 1240 [62 Cal.Rptr.2d 298]

Substituted counsel's

attorney had no right to file proposed fee order after discharge and substitution out of case

In re Marriage of Read (2002) 97 Cal.App.4th 476 [118 Cal.Rptr.2d 497]

entitlement to recover for full performance under employment contract

Di Loreto v. O'Neill (1991) 1 Cal.App.4th 149

unpaid [See Fee, attempt to collect, discharge.]

LA 183 (1951)

SD 1972-17

-lien on client's settlement does not create any automatic rights to disputed fees

LA 438

-refuse substitution until paid

LA(l) 1966-10

Suit to recover

LA 362 (1976), LA 212 (1953)

claim in bankruptcy proceeding

In re Marquam Investment Corporation (9th Cir. 1991) 942 F.2d 1462

LA 452 (1988)

court appointed attorney representing indigent clients is statutory not contractual

-may not sue for more

Arnelle v. City and County of San Francisco (1983) 141 Cal.App.3d 693

disclosure of confidential information

LA 498 (1999)

United States District Court has ancillary jurisdiction over fee disputes arising from litigation pending before the district court

Curry v. Del Priore (9th Cir. 1991) 941 F.2d 730

unnamed class member who failed to intervene at trial in a federal securities fraud action had standing to appeal the trial court's award of attorney fees

Powers v. Eichen (9th Cir. 2000) 229 F.3d 1249

withdraw before suing for fees

LA 476 (1994) LA 407 (1982), LA 362 (1976)

Trial court improperly withheld past due SSI benefits for payment of attorney's fees

Bowen v. Galbreath (1988) 485 U.S. 74 [108 S.Ct. 892]

Trial court's discretion to grant under Brown Act

Common Cause v. Stirling (1983) 147 Cal.App.3d 518

Unconscionable

In the Matter of Silverton (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 252

agreement providing that attorney waives specified fees if client agrees not to accept a confidentiality clause in any settlement permitted if client retains the authority to settle the case without the lawyer's consent

LA 505 (2000)

contingent fee percentage calculation in view of de minimis time and labor

LA 458

court may refuse to enforce unconscionable contingent fee

Seltzer v. Robinson (1962) 57 Cal.2d 213, 218

discipline imposed for unconscionable fee

Ramirez v. Sturdevant (1994) 21 Cal.App.4th 904

Tarver v. State Bar (1984) 37 Cal.3d 122, 134

In the Matter of Kroff (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 838

In the Matter of Harney (Review Dept. 1995) 3 Cal. State Bar Ct. Rptr. 266

"double billing"

CAL 1996-147

exorbitant and disproportionate

Ramirez v. Sturdevant (1994) 21 Cal.App.4th 904

Tarver v. State Bar (1984) 37 Cal.3d 122, 134

exorbitant and unconscionable fee charged

Recht v. State Bar (1933) 218 Cal. 352, 353

fee charged in excess of reasonable value of services does not of itself warrant discipline

Herrscher v. State Bar (1935) 4 Cal.2d 399, 401-402

fee financing plan

OR 93-002

forty-five percent of the total judgment plus court awarded fees exceeded the limits of rule 4-200

In the Matter of Yagman (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 788

gross overcharge by attorney may warrant discipline

Ramirez v. Sturdevant (1994) 21 Cal.App.4th 904

Bushman v. State Bar (1974) 11 Cal.3d 558, 562-564 [113 Cal.Rptr. 904]

hybrid, hourly and contingent

OR 99-001, SF 1999-1

informed consent of client not obtained

In the Matter of Kroff (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 838

law firm's costs are irrelevant to claim of unconscionable attorney fees charged to client

Shaffer v. Superior Court (1995) 33 Cal.App.4th 993 [39 Cal.Rptr.2d 506]

offset recovery used as basis for contingent fee calculation

LA 458

"over-billing"

preparation of false and misleading billing statements involves moral turpitude

In the Matter of Berg (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 725

OR 99-001

partnership agreement

-allocation of fees for unfinished cases taken by departing partner

Champion v. Superior Court (1988) 201 Cal.App.3d 777

-contract term providing that if attorney leaves firm and takes clients, then 80% of the subsequent fees shall be paid to the firm may be enforceable

Moncharsh v. Heily & Blase (1992) 3 Cal.4th 1

patent prosecution

LA 507

unconscionable fee found to violate rule 4-200, Rules of Professional Conduct

Warner v. State Bar (1983) 34 Cal.3d 36 [192 Cal.Rptr. 244, 664 P.2d 148]

In the Matter of Kroff (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 838

Matter of Harney (Review Dept. 1995) 3 Cal. State Bar Ct. Rptr. 266

CAL 1994-135, OR 93-002, SF 1999-1

whether contingent fee charged is unconscionable determined at time contract entered into

Youngblood v. Higgins (1956) 146 Cal.App.2d 350, 352 [303 P.2d 637]

Swanson v. Hempstead (1944) 64 Cal.App.2d 681, 688 [149 P.2d 404]

Undue influence, presumption of

Sayble v. Feinman (1978) 76 Cal.App.3d 509 [142 Cal.Rptr. 895]

lien agreement assigning anticipated statutory fees in one case to satisfy fees incurred in another unrelated case does not give rise to

LA 496 (1998)

United States civil rights actions

42 U.S.C. § 1983 actions

Holland v. Roeser (9th Cir. 1994) 37 F.3d 501

-a plaintiff unsuccessful at a stage of litigation necessary to an ultimate victory is entitled to attorney's fees even for the unsuccessful stage

Cabral v. County of Los Angeles (1991) 496 U.S.924 [110 S.Ct. 2615]

-calculation of fee award must be explained

United Steelworkers of America v. Phelps Dodge Corp. (9th Cir. 1990) 896 F.2d 403

Patton v. County of Kings (9th Cir. 1988) 857 F.2d 1379

42 U.S.C. § 1988 actions

-calculation must be explained

Wilcox v. City of Reno (9th Cir. 1994) 42 F.3d 550

Gates v. Deukmejian (9th Cir. 1992) 977 F.2d 1300

-computation of fees

Texas State Teachers Assn. v. Garland Indep. School Dist. (1989) 489 U.S. 1005 [109 S.Ct. 1486]

-de minimus damages award merits de minimus fee award

Choate v. County of Orange (2001) 86 Cal.App.4th 312 [103 Cal.Rptr.2d 339]

-denial of fees based on special circumstances under the traditional prevailing party analysis

San Francisco N.A.A.C.P. v. San Francisco Unified School District (9th Cir. 2002) 284 F.3d 1163

-Eleventh Amendment permits attorneys' fees enhancement to compensate for payment delay

Missouri v. Jenkins (1989) 491 U.S. 274 [109 S.Ct. 2463]

-federal official may be liable

Merritt v. Mackey (9th Cir. 1991) 932 F.2d 1317

-fees awards in civil rights case reviewed for abuse of discretion

Rock Creek Limited Partnership v. State Water Resources Control (9th Cir. 1992) 972 F.2d 274

United Steelworkers of America v. Phelps Dodge Corp. (9th Cir. 1990) 896 F.2d 403

Hensley v. Eckerhart (1983) 461 U.S. 424, 437

FICTITIOUS NAMES

- Benigni v. City of Hemet (9th Cir. 1988) 853 F.2d 1519
Hardin v. White Mountain Apache Tribe (9th Cir. 1985) 779 F.2d 476, 480
- fees not precluded by failure to achieve remedy sought when constitutional violations remedied
Sokolow v. County of San Mateo (1989) 213 Cal.App.3d 231 [261 Cal.Rptr. 520]
 - hospital's wrongful life-sustaining efforts not "state action" for § 1988 fees
McMahon v. Lopez (1988) 199 Cal.App.3d 829 [245 Cal.Rptr. 172]
 - nominal award of one dollar
Romberg v. Nichols (9th Cir. 1992) 953 F.2d 1152; amended at 970 F.2d 512
 - partial attorney fees awarded
Erdman v. Cochise County (9th Cir. 1991) 926 F.2d 877
 - party that won consent decree but was later unsuccessful in defending decree in a separate action not entitled to award of fees and costs
San Francisco N.A.A.C.P. v. San Francisco Unified School District (9th Cir. 2002) 284 F.3d 1163
 - plaintiff who wins state claim but loses federal claim not awarded attorney fees
McFadden v. Villa (2001) 93 Cal.App.4th 235 [113 Cal.Rptr.2d 80]
 - plaintiff's environmental challenge to nuclear plant operations are entitled to unenhanced attorney's fees
Earth Island Institute v. Southern California Edison (1993) 838 F.Supp. 458
Guinn v. Dotson (1994) 23 Cal.App.4th 262
 - reduction of "fees-on-fees" is warranted for counsel's time spent on unsuccessful "merits fees" request
Thompson v. Gomez (9th Cir. 1995) 45 F.3d 1365
 - successful challenge to application of city ordinance
Segundo v. Rancho Mirage City (9th Cir. 1989) 873 F.2d 1277
- Unlawful detainer action
Harrington v. Department of Real Estate (1989) 214 Cal.App.3d 394
Simpson v. Smith (1989) 214 Cal.App.3d Supp.7
- Unpaid [See Attorney's lien.]
attachment motion
Loeb & Loeb v. Beverly Glen Music, Inc. (1985) 166 Cal.App.3d 1110 [212 Cal.Rptr. 830]
- attempt to collect unreasonable fee, issue of entitlement to award of fees and costs
Schneider v. Friedman, Collard, Poswell & Virga (1991) 232 Cal.App.3d 1276
- bankruptcy action
attorney's fees denied without court authorization
In re Monument Auto Detail, Inc. (9th Cir. BAP 1998) 226 B.R. 219 [33 Bankr.Ct.Dec. 419]
- default against client without consulting
LA 174 (1950)
- delaying client's case until fees paid
Business and Professions Code section 6128(b)
LA 356 (1976), LA 261 (1959)
- finance charge added to
CAL 1980-53, LA 374 (1978), SD 1983-1
- foreclose note for
LA(I) 1975-8
- future services conditional on payment of fees due
LA 360 (1976)
- hold client's papers
LA 330 (1972), LA(I) 1970-6
SD 1997-1, SD 1984-3, SD 1977-3, SF 1973-12
Board Policy Statement (Sept. 1971) III.A.2., supra
- levy on client's spouse's property
LA(I) 1971-17
- lien asserted [See File.]
LA 47 (1927), LA(I) 1970-1, SD 1997-1, SD 1984-3, SD 1977-3
- notification to opposing counsel
SD 1969-3
- paid with check not covered with funds
LA(I) 1947-3
- refuse to continue or begin case
Business and Professions Code section 6128
LA 360 (1976), LA 356 (1976), LA 261 (1959), LA(I) 1967-9
SD 1978-7, SD 1973-3
- service charge added to
LA 370 (1978), LA(I) 1972-4
SF 1970-1
- substituted counsel's
-attorney had no right to file proposed fee order after discharge and substitution out of case
In re Marriage of Read (2002) 97 Cal.App.4th 476 [118 Cal.Rptr.2d 497]
LA 183 (1951), LA 50 (1927)
SD 1972-17
- suit for, requires attorney to withdraw
LA 476 (1994), LA 407 (1982), LA 362 (1976), LA 212 (1953)
- threaten "dire consequences" and "increased costs" if not paid
LA(I) 1966-12
- threaten to "take up with authorities"
LA(I) 1947-3
- unconscionable
Priester v. Citizens National etc. Bank (1955) 131 Cal.App.2d 314 [280 P.2d 835]
- use confidences of client to collect
LA 452, LA 159 (1945), LA(I) 1961-3
- use of criminal process to collect
Bluestein v. State Bar (1974) 13 Cal.3d 162 [118 Cal.Rptr. 175, 529 P.2d 599]
- withdraw
LA 371 (1977), LA 362 (1976), LA 356 (1976), LA 251 (1958), LA 212 (1953), LA 211 (1953), LA(I)1936-1
- before suing client for fees
LA 407 (1982), LA 362 (1976), LA 212 (1953)
- withdrawal of client trust account funds to pay disputed represents executor for fee
LA 382 (1979)
- Withdrawal by attorney
attorney entitled to quantum meruit
Pearlmutter v. Alexander (1979) 97 Cal.App.3d Supp. 16 [158 Cal.Rptr. 762]
- not available if attorney abandoned case
Hensel v. Cohen (1984) 155 Cal.App.3d 563 [202 Cal.Rptr. 85]
- Withdrawal of client trust account funds to pay disputed fee
LA 438 (1985)
- Withdrawal of unrelated client monies to pay off debt of client
SD 1976-5
- Workers' Compensation
claimant's attorney is not entitled to fees from settlement proceeds if claimant received no benefit from the settlement
Draper v. Aceto (2001) 26 Cal.4th 1086 [113 Cal.Rptr.2d 61]
- Written fee agreement required
Business and Professions Code section 6147-6149
- FICTITIOUS NAMES** [See Advertising, fictitious names. Business activity, name for. Partnership, name.]
- FIFTH AMENDMENT**
Business and Professions Code section 6068(i)

FILE

FILE [See Document.]

Rules 2-111(A) and 8-101(B)(4), Rules of Professional Conduct (operative until May 26, 1989)

Rules 3-700 and 4-100, Rules of Professional Conduct (operative as of May 27, 1989)

Class Action

Former member of a class who opted out of the class has no right to the papers and property

LA 481 (1995)

Client

claims of multiple clients

CAL 1999-153

-multiple clients each demand the original

LA 493 (1998)

delivery to succeeding attorney

SD 1970-3

-consent of client

LA 112 (1937)

disposition of

-death of client

LA 491 (1997)

-partnership dissolves

CAL 1985-86, LA 405 (1982), LA(I) 1979-1

following attorney to new firm

LA 405 (1982)

hold in fee dispute

LA 330 (1972), LA(I) 1970-6

SD 1997-1, SD 1984-3, SD 1977-3

SF 1973-12

lien

-against client file

--permissible if created by contract

Weiss v. Marcus (1975) 51 Cal.App.3d 590 [124 Cal.Rptr. 297]

-against non-payment of attorneys fees

--void

Academy of Calif. Opt. Inc. v. Superior Court (1975) 51 Cal.App.3d 999, 1006 [124 Cal.Rptr. 668]

CAL 1994-134, SD 1997-1, SD 1984-3, SD 1977-3

-charging against funds not in attorney's possession, enforcement

Siciliano v. Fireman's Fund (1976) 62 Cal.App.3d 745 [133 Cal.Rptr. 376]

make available on withdrawal

SD 1997-1, SF 1996-1, SF 1990-1, SD 1984-3, SD 1977-3

-mental health records in file must be released to client notwithstanding written notice from health care provider that disclosure may be detrimental to client

LA 509 (2002)

release to, after discharge

Bernstein v. State Bar (1990) 50 Cal.3d 221

Rosenthal v. State Bar (1987) 43 Cal.3d 612 [238 Cal.Rptr. 394]

Cal Pak Delivery, Inc. v. United Parcel Service (1997) 52 Cal.App.4th 1 [60 Cal.Rptr.2d 207]

Kallen v. Delug (1984) 157 Cal.App.3d 940, 950 [203 Cal.Rptr. 879]

In the Matter of Bailey (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 220

In the Matter of Phillips (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 315

In the Matter of Lais (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 907

In the Matter of Sullivan, II (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 608

In the Matter of Kaplan (Review Dept. 1996) 3 Cal. State Bar Ct. Rptr. 547

In the Matter of Tindall (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 652

CAL 1994-134, SD 2001-1

return to

In the Matter of Bailey (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 220

LA 405 (1982), LA 362 (1976), LA 253 (1958), LA 112 (1937), LA 103 (1937), LA(I) 1962-2

SD 1997-1, SD 1984-3, SD 1977-3

SF 1984-1, SF 1975-4

right to

-inspect and copy while in possession of attorney

LA 103 (1936), SD 1997-1, SD 1984-3, SF 1973-12

-materials in

LA 197 (1952), LA 103 (1937)

SD 1997-1, SD 1984-3, SD 1977-3, SF 1979-3, SF 1975-4

substituted counsel's duty with respect to [See right to]

LA(I) 1964-5, LA(I) 1959-4

SD 1970-3

willful failure to return client files

Bernstein v. State Bar (1990) 50 Cal.3d 221 [786 P.2d 352]

In the Matter of Robins (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 708

Condition delivery of deposition transcript on former client's payment of reporter's fees

LA 425 (1984)

Cost of making copies

SD 2001-1, SD 1977-3, SF 1984-1

Crime-fraud exception to attorney-client privilege does not apply to work product

BP Alaska Exploration, Inc. v. Superior Court (1988) 199 Cal.App.3d 1240 [245 Cal.Rptr. 682]

Denied access to

tolling of habeas petition deadline when prisoner did not have access to file

Lott v. Mueller (9th Cir. 2002) 304 F.3d 918

Duty to deliver client's to

succeeding attorney

-consent of client

LA 112 (1937)

Failure to deliver file to client's new attorney

King v. State Bar (1990) 52 Cal.3d 307 [801 P.2d 419]

Friedman v. State Bar (1990) 50 Cal.3d 235 [786 P.2d 359]

In re Valinoti (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 498

In the Matter of Phillips (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 315

In the Matter of Kaplan (Review Dept. 1996) 3 Cal. State Bar Ct. Rptr. 547

In the Matter of Myrdall (Review Dept. 1995) 3 Cal. State Bar Ct. Rptr. 363

In the Matter of Lane (Review Dept. 1994) 2 Cal. State Bar Ct. Rptr. 735

In the Matter of Kopinski (Review Dept. 1994) 2 Cal. State Bar Ct. Rptr. 716

In the Matter of Hanson (Review Dept. 1994) 2 Cal. State Bar Ct. Rptr. 703

Failure to protect clients' records and files

In re Valinoti (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 498

Fiduciary duty to keep adequate non-financial client files and records

In re Valinoti (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 498

Fixed by statute

agreement with client to handle legal matter for less than amount

-probate matter

LA 102 (1936)

Lien

against non-payment of attorney's fees

-void

CAL 1994-134

FINANCIAL ARRANGEMENT WITH NON-LAWYER

Reasonableness of
probate proceedings
-agreement with client to handle for less than fee fixed by statute
LA 102 (1936)

Retention
criminal files
LA 420 (1983)
deceased client
duty to notify legal representatives or legatees
Probate Code section 700 et. seq.
LA 491 (1997)
CAL 2001-157, LA 475 (1993), SF 1996-1

Substitution form
client's refusal to sign
+In the Matter of Aguiluz (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 32

Unilateral determination of
by attorney
Greenbaum v. State Bar (1976) 15 Cal.3d 893, 899
Silver v. State Bar (1974) 13 Cal.3d 134, 142 [117 Cal.Rptr. 821]
Crooks v. State Bar (1970) 3 Cal.3d 346, 358
Trafton v. Youngblood (1968) 69 Cal.2d 17, 26
Most v. State Bar (1967) 67 Cal.2d 589, 597 [63 Cal.Rptr. 265, 432 P.2d 953]

Work product
Upjohn v. United States (1981) 449 U.S. 383 [101 S.Ct. 677]
Lasky, Haas, Cohler & Munter v. Superior Court (1985) 172 Cal.App.3d 264, 276-277 [218 Cal.Rptr. 205]
belongs to client whether or not the attorney has been paid
Weiss v. Marcus (1975) 51 Cal.App.3d 590 [124 Cal.Rptr. 297]
client's right to
Rumac, Inc. v. Bottomley (1983) 143 Cal.App.3d 810, 812 In. 3 [192 Cal.Rptr. 104]
SD 1997-1, SF 1990-1
crime-fraud exception to attorney-client privilege does not apply to work product
BP Alaska Exploration, Inc. v. Superior Court (1988) 199 Cal.App.3d 1240 [245 Cal.Rptr. 682]
general (qualified) versus attorney's impressions, conclusions, opinions, or legal research or theories (absolute)
BP Alaska Exploration, Inc. v. Superior Court (1988) 199 Cal.App.3d 1240 [245 Cal.Rptr. 682]
privilege
Code of Civil Procedure section 2018
In re Tabatha G. (1996) 45 Cal.App.4th 1159 [53 Cal.Rptr.2d 93]
SD 1997-1, SD 1984-3, SD 1977-3
SF 1984-1
-demonstrated need for access can compel production and overcome privilege
Kizer v. Sulnick (1988) 202 Cal.App.3d 431 [248 Cal.Rptr. 712]
-work product rule distinguished from attorney client privilege
McMorgan & Co. v. First California Mortgage Co. (N.D. CA 1997) 931 F.Supp. 703
Admiral Insurance v. U.S. Dist. Court for Dist. of Arizona (9th Cir. 1989) 881 F.2d 1486

FINANCIAL ARRANGEMENT WITH NON-LAWYER [See Division of fees, With lay entity]

Rule 1-320, Rules of Professional Conduct
Compensation paid to lawyer by doctor for referring a client to a doctor to provide medical services
LA 443 (1988)

FINANCIAL HELP TO CLIENT [See Advancement of funds.]

FINANCING

Credit card
SD 1983-1

FINDER'S FEE [See Commission.]

FIRST AMENDMENT

Congressional restriction on funding of organizations that represent indigent clients in loss of welfare benefits suits violates First Amendment

Legal Services Corp. v. Velazquez (2001) 531 U.S. 533 [121 S.Ct. 1043]

Mandatory bar membership

Morrow, et al. v. State Bar (9th Cir. 1999) 188 F.3d 1174

Protections

44 Liquormart Inc. v. Rhode Island Liquor Stores Assn. (1996) 517 U.S. 484 [116 S.Ct. 1495]

Edenfield v. Fane (1993) 507 U.S. 761 [113 S.Ct. 1792]

In re R.M.J. (1982) 455 U.S. 191 [102 S.Ct. 929]

Central Hudson Gas & Electric Corp. v. Public Service Comm. of New York (1980) 447 U.S. 557 [100 S.Ct. 2343]

Bates v. State Bar of Arizona (1977) 433 U.S. 350

Virginia Bd. of Pharmacy v. Virginia Citizens Consumer Council (1976) 425 U.S. 748 [96 S.Ct. 1817]

Belli v. State Bar (1974) 10 Cal. 824, 833 [112 Cal.Rptr. 527, 519 P.2d 575]

In the Matter of Anderson (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 775

FORECLOSURE [See Real estate transaction.]

Rule 4-300, Rules of Professional Conduct

Represent

plaintiff/buy property involved

LA 283 (1963)

FOREIGN ATTORNEY [See Advertising. Division of fees. Letterhead. Partnership, interstate. Practice of law.]

Association with

Bluestein v. State Bar (1974) 13 Cal.3d 162 [118 Cal.Rptr. 175, 529 P.2d 599]

LA 233 (1956), LA 202 (1952), LA 189 (1952),

LA(I) 1969-3

Compensation

LA(I) 1969-3

Employment

LA 189 (1952), LA 166 (1947), LA(I) 1969-3

Listed in law list

LA 249 (1958)

"Of counsel"

LA(I) 1967-8

Office, share with

LA 99 (1936)

Out-of-state Attorney Arbitration Counsel Program

California Rules of Court 983.4

Partnership with [See Partnership, interstate.]

LA 230 (1955)

SF 1974-1

Practice by

LA 218 (1953), LA 156 (1945)

before agencies

LA 332 (1973)

before federal agencies and courts

LA 233 (1956), LA 168 (1948), LA 156 (1945)

Referral of legal business by

LA(I) 1959-3

FORWARDING FEE [See Division of fees.]

FRIVOLOUS APPEAL

Smith v. Robbins (2000) 528 U.S. 259 [120 S.Ct. 746]

Pierotti, et al. v. Torian (2000) 81 Cal.App.4th 17 [96 Cal.Rptr.2d 553]

People v. Dependable Insurance Co. (1988) 204 Cal.App.3d 871 [251 Cal.Rptr. 527]

FUGITIVE

Disclose fugitive client's whereabouts

LA(I) 1931-2

Harboring a fugitive

In the Matter of DeMassa (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 737

GAMBLING

Abstinence from all gambling as a probation condition

In the Matter of Petilla (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 231

GARNISHMENT

Attendance at Gamblers Anonymous meetings not warranted as a probation condition

In the Matter of Petilla (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 231

By judge

LA(l) 1976-6, LA(l) 1958-4

GARNISHMENT

Counsel discloses that he holds funds of client

LA(l) 1954-4

GENERAL COUNSEL

[See Corporation, counsel for.]

GIFT [See Attorney-client relationship. Charitable donation of fees/time. Division of fees. Fees.]

Rules 2-108(B) & 3-102(B), Rules of Professional Conduct (operative until May 26, 1989)

Rules 2-200 and 1-320, Rules of Professional Conduct (operative as of May 27, 1989)

SD 1977-2

testamentary gift to attorney who prepared will

LA 462

GOOD WILL

[See Practice, sale of.]

GOVERNMENTAL AGENCIES [See Attorneys for governmental agencies. Conflict of interest, disqualification.]

GRATUITOUS SERVICE [See Fee, none charged.]

GRIEVANCE COMMITTEE [See State Bar association.]

GROUP LEGAL SERVICES [See Advertising, group legal services.]

Rule 2-102, Rules of Professional Conduct (operative until May 26, 1989)

Rule 1-600, Rules of Professional Conduct (operative as of May 27, 1989)

United Mine Workers v. Illinois State Bar Assn. (1967) 389 U.S. 217 [88 S.Ct. 353]

Brotherhood of Railroad Trainmen v. Virginia (1964) 377 U.S. 1 [84 S.Ct. 1113]

NAACP v. Button (1963) 371 U.S. 415 [83 S.Ct. 328]

Hildebrand v. State Bar (1950) 36 Cal.2d 504 [225 Cal.Rptr. 508]

SD 1974-20

Established by
credit union

SD 1974-7

employer

LA(l) 1978-2

labor union

LA 320 (1970), SD 1973-7

lending institution for depositors

LA(l) 1979-3

non-qualified corporation

LA(l) 1974-1

organization

SD 1976-1

senior citizens association

SD 1976-11

Fees under

LA(l) 1979-3, LA(l) 1978-2, LA(l) 1971-9

SD 1976-4, SD 1976-1, SD 1973-7

Group representation

Brotsky v. State Bar (1962) 57 Cal.2d 287 [19 Cal.Rptr. 153]

Name for

LA 320 (1970)

Policyholders of corporation formed to provide insurance to cover cost of legal service

LA(l) 1972-10

Publicity for

LA(l) 1979-3, LA(l) 1971-9

SD 1975-6, SF 1975-3

GUARDIAN

[See Trustee.]

CAL 1988-96

Attorney for former guardian represents against as counsel for wife of deceased ward

LA(l) 1961-5

GUARDIAN AD LITEM

Appointment to represent a minor client does not make the attorney the minor's guardian ad litem

LA 504 (2000)

authority to disclose confidential information about a minor client to the minor's guardian ad litem

LA 504 (2000)

Attorney for, duty to obtain court approval for actions

Torres v. Friedman (1985) 169 Cal.App.3d 880, 887-888 [215 Cal.Rptr. 604]

Authority to seek appointment of a guardian ad litem for a minor client who cannot make an informed decision

LA 504 (2000)

HABEAS PETITION

Tolling

tolling of habeas petition deadline when prisoner did not have access to file

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Roe v. Flores-Ortega (2000) 528 U.S. 470 [120 S.Ct. 1029]
 Failure to contact alleged alibi witness
Luna v. Cambra (9th Cir. 2002) 306 F.3d 954
Lord v. Wood (9th Cir. 1999) 184 F.3d 1083
In re Cudjo (1999) 20 Cal.4th 673 [85 Cal.Rptr.2d 436]
In re Branch (1969) 70 Cal.2d 200 [74 Cal.Rptr. 238]
People v. Andrade (2000) 79 Cal.App.4th 651 [94 Cal.Rptr.2d 314]
People v. Lawrence (1980) 111 Cal.App.3d 630 [169 Cal.Rptr. 245]
In re Clarence B. (1974) 37 Cal.App.3d 676, 681 [112 Cal.Rptr. 474]
People v. Gaulden (1974) 36 Cal.App.3d 942, 952 [111 Cal.Rptr. 803]
People v. Byers (1970) 10 Cal.App.3d 410, 417 [88 Cal.Rptr. 886]
People v. Ricks (1958) 161 Cal.App.2d 674 [327 P.2d 209]
 Failure to deny defendant's guilt during closing argument to the jury
People v. Wade (1987) 43 Cal.3d 366, 375-378 [233 Cal.Rptr. 48]
People v. Jackson (1980) 28 Cal.3d 264, 292 [168 Cal.Rptr. 603, 618 P.2d 149]
 Failure to disclose parole consequences of a guilty plea
Doganieri v. United States (9th Cir. 1990) 914 F.2d 165
 Failure to enter pleas of not guilty by reason of insanity
In re Kubler (1975) 53 Cal.App.3d 799 [126 Cal.Rptr. 25]
 Failure to expressly state a claim
People v. Whitt (1984) 36 Cal.3d 724, 739-740 [205 Cal.Rptr. 810]
 Failure to file timely notice of appeal
Roe v. Flores-Ortega (2000) 528 U.S. 470 [120 S.Ct. 1029]
 no presumed prejudice
Canales v. Roe (9th Cir. 1998) 151 F.3d 1226 [949 F.Supp. 762]
 Failure to file written statement required by Penal Code section 1237.5
People v. Ivester (1991) 235 Cal.App.3d 328
 Failure to give timely notice of motion to suppress evidence
People v. Lewis (1977) 71 Cal.App.3d 817, 821 [139 Cal.Rptr. 673]
 Failure to have semen sample taken from victim subjected to genetic typing
People v. Wilson (1982) 128 Cal.App.3d 132 [179 Cal.Rptr. 898]

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Failure to inform defendant that prior felony convictions that were admitted could be used to impeach him if he testified
People v. Hill (1976) 64 Cal.App.3d 16, 30 [134 Cal.Rptr. 443]

Failure to interview eyewitnesses
Avila v. Galaza (9th Cir. 2002) 297 F.3d 911
People v. Bess (1984) 153 Cal.App.3d 1053 [200 Cal.Rptr. 773]

Failure to introduce evidence which did not result in undermining of confidence in the outcome
Karis v. Calderon (9th Cir. 2002) 283 F.3d 1117

Failure to introduce exculpatory evidence
Avila v. Galaza (9th Cir. 2002) 297 F.3d 911
Hart v. Gomez (9th Cir. 1999) 174 F.3d 1067
Jones v. Wood (9th Cir. (Wash.) 2000) 207 F.3d 557

Failure to investigate/research
United States v. Alvarez-Tautimez (9th Cir. 1998) 160 F.3d 573

Failure to make a closing argument
People v. Espinoza (1979) 99 Cal.App.3d 44 [159 Cal.Rptr. 803]

Failure to make all objections possible to prosecutor's questioning of witnesses
People v. Hayes (1971) 19 Cal.App.3d 459, 471 [96 Cal.Rptr. 879]

Failure to make an opening statement
People v. Hayes (1971) 19 Cal.App.3d 459, 471 [96 Cal.Rptr. 879]

Failure to make motions
People v. Saldana (1984) 157 Cal.App.3d 443, 459, 462-463 [204 Cal.Rptr. 465]

Failure to move for a change of venue
People v. Green (1980) 27 Cal.3d 1, 44 [164 Cal.Rptr. 1, 609 P.2d 468]

Failure to move for a continuance
People v. Adams (1974) 43 Cal.App.3d 697, 705 [117 Cal.Rptr. 905]

Failure to move for a dismissal of charges untimely raised in a superceding indictment
U.S. v. Palomba (9th Cir. 1994) 31 F.3d 1456

Failure to move for a mistrial following revelation of jurors' premature discussion of case
People v. Steger (1976) 16 Cal.3d 539, 551 [128 Cal.Rptr. 161]

Failure to move for a severance
People v. Adams (1980) 101 Cal.App.3d 791 [162 Cal.Rptr. 72]
People v. Reeder (1978) 82 Cal.App.3d 543, 556 [147 Cal.Rptr. 275]
People v. Campbell (1976) 63 Cal.App.3d 599, 613 [133 Cal.Rptr. 815]
People v. Simms (1970) 10 Cal.App.3d 299, 313 [89 Cal.Rptr. 1]
People v. Doebke (1969) 1 Cal.App.3d 931, 937 [81 Cal.Rptr. 391]

Failure to move for the identity of an informant to be disclosed
People v. Cooper (1979) 94 Cal.App.3d 672, 681 [156 Cal.Rptr. 646]

Failure to move that victim be ordered to submit to psychiatric examination
People v. Belasco (1981) 125 Cal.App.3d 974 [178 Cal.Rptr. 461]

Failure to move to disqualify judge
People v. Beaumaster (1971) 17 Cal.App.3d 996, 1009 [95 Cal.Rptr. 360]

Failure to move to suppress evidence
Toomey v. Bunnell (9th Cir. 1990) 898 F.2d 741
People v. Martinez (1975) 14 Cal.3d 533 [121 Cal.Rptr. 611]
People v. Jenkins (1975) 13 Cal.3d 749, 753 [119 Cal.Rptr. 705]
People v. Ibarra (1963) 60 Cal.2d 460 [34 Cal.Rptr. 863]
People v. Turner (1992) 7 Cal.App.4th 913
People v. Berry (1990) 224 Cal.App.3d 162 [273 Cal.Rptr. 509]

People v. Howard (1986) 182 Cal.App.3d 670, 674 [227 Cal.Rptr. 362]
People v. Shope (1982) 128 Cal.App.3d 816 [180 Cal.Rptr. 567]
People v. Shelburne (1980) 104 Cal.App.3d 737, 743 [163 Cal.Rptr. 767]
People v. Willis (1980) 104 Cal.App.3d 433, 439 [163 Cal.Rptr. 718]
*People v. Piper (1980) 103 Cal.App.3d 102, 106 [162 Cal.Rptr. 833]
People v. Perry (1979) 100 Cal.App.3d 251, 264 [161 Cal.Rptr. 108]
In re Lower (1979) 100 Cal.App.3d 144, 147 [161 Cal.Rptr. 24]
People v. Eckstrom (1974) 43 Cal.App.3d 996 [118 Cal.Rptr. 391]
People v. Constancio (1974) 42 Cal.App.3d 533, 539 [116 Cal.Rptr. 910]
In re Golia (1971) 16 Cal.App.3d 775, 779 [94 Cal.Rptr. 323]
*People v. Hoffmann (1970) 7 Cal.App.3d 39 [86 Cal.Rptr. 435]

Failure to move to suppress witness in-court identification of defendant
People v. Harpool (1984) 155 Cal.App.3d 877, 885 [202 Cal.Rptr. 467]

Failure to move to withdraw guilty plea
United States v. Alvarez-Tautimez (9th Cir. 1998) 160 F.3d 573

Failure to move to withdraw guilty pleas when court failed to treat offense as misdemeanor as part of a plea bargain
People v. Ham (1975) 44 Cal.App.3d 288, 292 [188 Cal.Rptr. 591]

Failure to object and request an admonition on each occasion that hearsay evidence was offered which was admissible only against a co-defendant
People v. Doebke (1969) 1 Cal.App.3d 931, 937 [81 Cal.Rptr. 391]

Failure to object to admission of evidence
Karis v. Calderon (9th Cir. 2002) 283 F.3d 1117
People v. Jackson (1980) 28 Cal.3d 264, 291 [168 Cal.Rptr. 603, 618 P.2d 149]
People v. Gordon (1982) 136 Cal.App.3d 519 [186 Cal.Rptr. 373]
People v. Frausto (1982) 135 Cal.App.3d 129 [185 Cal.Rptr. 314]
*People v. Ottombrino (1982) 127 Cal.App.3d 574, 582 [179 Cal.Rptr. 676]
People v. Adams (1980) 101 Cal.App.3d 791 [162 Cal.Rptr. 72]
In re Lower (1979) 100 Cal.App.3d 144, 147 [161 Cal.Rptr. 24]
People v. Sundlee (1977) 70 Cal.App.3d 477 [138 Cal.Rptr. 834]
People v. Gauden (1974) 36 Cal.App.3d 942, 952 [111 Cal.Rptr. 803]
People v. Allison (1966) 245 Cal.App.2d 568 [54 Cal.Rptr. 148]

Failure to object to admission of evidence of other crimes allegedly committed by defendant
People v. Lanphear (1980) 26 Cal.3d 814 [163 Cal.Rptr. 601, 608 P.2d 689]
People v. Mendoza (2000) 78 Cal.App.4th 918 [93 Cal.Rptr.2d 216]
People v. Stiltner (1982) 132 Cal.App.3d 216, 225 [183 Cal.Rptr. 790]

Failure to object to admission of identification made as result of an allegedly suggestive lineup
In re Banks (1971) 4 Cal.3d 337 [93 Cal.Rptr. 591, 482 P.2d 215]
People v. Mixon (1982) 129 Cal.App.3d 118 [180 Cal.Rptr. 772]
People v. Flores (1981) 115 Cal.App.3d 67, 80 [171 Cal.Rptr. 365]

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Failure to object to admission of incriminating statements made by defendant

In re Wilson (1992) 3 Cal.4th 945 [13 Cal.Rptr.2d 269]

People v. Green (1982) 134 Cal.App.3d 587 [184 Cal.Rptr. 652]

People v. Borba (1980) 110 Cal.App.3d 989 [168 Cal.Rptr. 305]

People v. Jones (1979) 96 Cal.App.3d 820 [158 Cal.Rptr. 415] to cellmate

People v. Whitt (1984) 36 Cal.3d 724 [205 Cal.Rptr. 810]

Failure to object to admission of Miranda waiver and subsequent statement

People v. Thomas (1974) 43 Cal.App.3d 862, 868 [118 Cal.Rptr. 226]

Failure to object to admission of prior convictions

People v. Taylor (1990) 52 Cal.3d 719 [801 P.2d 1142]

People v. Mendoza (2000) 78 Cal.App.4th 918 [93 Cal.Rptr.2d 216]

Failure to object to improper impeachment of defendant by prosecutor

People v. Duran (1982) 132 Cal.App.3d 156 [183 Cal.Rptr. 99]

Failure to object to introduction into evidence of arguably suggestive pretrial identifications of defendant

People v. Nation (1980) 26 Cal.3d 169 [161 Cal.Rptr. 299, 604 P.2d 1051]

People v. Smith (1982) 134 Cal.App.3d 574 [184 Cal.Rptr. 765]

Failure to object to jury instructions did not violate due process

Karis v. Calderon (9th Cir. 2002) 283 F.3d 1117

Failure to object to jury instructions given

People v. Rhoden (1972) 6 Cal.3d 519 [99 Cal.Rptr. 751]

Failure to object to prosecutor as witness and prosecutor's statements

People v. Donaldson (2001) 93 Cal.App.4th 916 [113 Cal.Rptr.2d 548]

Failure to object to prosecutor's prejudicial remarks during closing argument

*Dubria v. Smith (9th Cir. 1999) 197 F.3d 390

Failure to object to prosecutor's reference to inculpatory testimony

U.S. v. Molina (9th Cir. 1991) 934 F.2d 1440

Failure to object to service of juror not ineffective assistance of counsel

Kimes v. United States (9th Cir. 1991) 939 F.2d 776

Failure to object to the shackling of defendant during the trial

*People v. Pena (1972) 25 Cal.App.3d 414, 424 [101 Cal.Rptr. 804]

Failure to obtain blood test

People v. Ackerman (1991) 230 Cal.App.3d 1 [280 Cal.Rptr. 887]

Failure to obtain complete transcript of motion to suppress for purposes of appeal

People v. Barton (1978) 21 Cal.3d 513 [146 Cal.Rptr. 727, 579 P.2d 1043]

Failure to obtain DNA test in rape case did not constitute ineffective assistance of counsel

People v. Bravo (1993) 18 Cal.App.4th 1493

Failure to participate in trial proceedings

People v. Shelly (1984) 156 Cal.App.3d 521 [202 Cal.Rptr. 874]

Failure to perform with reasonable competence

People v. Parsons (1984) 156 Cal.App.3d 1165, 1172-1173 [203 Cal.Rptr. 412]

Failure to persuade a defendant to plead guilty by insanity

People v. Geddes (1991) 1 Cal.App.4th 448

Failure to prepare

Visciotti v. Woodford (9th Cir. 2002) 280 F.3d 1097

Failure to prepare adequately for change of venue motion

In re Miller (1973) 33 Cal.App.3d 1005

Failure to present and explain to jury the significance of all mitigating evidence

Mayfield v. Woodford (9th Cir. 2001) 270 F.3d 915

Failure to present any mitigating evidence during death penalty phase of trial

Caro v. Woodford (9th Cir. 2002) 280 F.3d 1247

Visciotti v. Woodford (9th Cir. 2002) 288 F.3d 1097

Wallace v. Stewart (9th Cir. 1999) 184 F.3d 1112

Clabourne v. Lewis (9th Cir. 1995) 64 F.3d 1373

In re Visciotti (1996) 14 Cal.4th 325 [58 Cal.Rptr.2d 801]

People v. Diaz (1992) 2 Cal.App. 4th 1275

In re Jackson (1992) 4 Cal.App.4th 1107

In re Marquez (1992) 1 Cal.App.4th 584

Mak v. Blodgett (9th Cir. 1992) 970 F.2d 614

Evans v. Bramlett (9th Cir. 1988) 855 F.2d 631

People v. Jackson (1980) 28 Cal.3d 264, 293 [168 Cal.Rptr. 603]

People v. Durham (1969) 70 Cal.2d 171, 192 [74 Cal.Rptr. 262, 449 P.2d 198]

Failure to present at jury trial defendant's own theories that the effect of tax laws did not render ineffective assistance of counsel

United States v. Cochrane (1993) 985 F.2d 1027

Failure to present battered woman syndrome defense

People v. Romero (1992) 15 Cal.App.4th 1519 [13 Cal.Rptr.2d 332]

Failure to present diminished capacity defense

In re Cordero (1988) 46 Cal.3d 161, mod. 46 Cal.3d 795b [249 Cal.Rptr. 342]

People v. Haskett (1982) 30 Cal.3d 841, 852 [180 Cal.Rptr. 640, 640 P.2d 776]

*People v. Ramos (1982) 30 Cal.3d 553, 584-85 [180 Cal.Rptr. 266, 639 P.2d 908]

People v. Jackson (1980) 28 Cal.3d 264, 289 [168 Cal.Rptr. 603, 618 P.2d 149]

People v. Cook (1982) 135 Cal.App.3d 785, 795 [185 Cal.Rptr. 576]

People v. Stiltner (1982) 132 Cal.App.3d 216, 223 [183 Cal.Rptr. 790]

People v. Moringlove (1982) 127 Cal.App.3d 811, 821 [179 Cal.Rptr. 726]

Failure to present evidence of childhood abuse

Caro v. Woodford (9th Cir. 2002) 280 F.3d 1247

Karis v. Calderon (9th Cir. 2002) 283 F.3d 1117

Visciotti v. Woodford (9th Cir. 2002) 288 F.3d 1097

Failure to present evidence of mental instability

Caro v. Woodford (9th Cir. 2002) 280 F.3d 1247

Lambright v. Stewart (9th Cir. (Arizona) 2001) 241 F.3d 1201

Hendricks v. Vasquez (9th Cir. 1992) 974 F.2d 1099

Evans v. Bramlett (9th Cir. 1988) 855 F.2d 631

Failure to present evidence of pesticide and chemical exposure

Caro v. Woodford (9th Cir. 2002) 280 F.3d 1247

Failure to present evidence on ability to form intent necessary for first-degree murder

Jennings v. Woodford (9th Cir. 2002) 290 F.3d 1006

Failure to present evidence when there is no demonstration of any substantial or credible evidence is not ineffective assistance

In re Cudjo (1999) 20 Cal.4th 673 [85 Cal.Rptr.2d 436]

Failure to present exculpatory statement

People v. Foster (1992) 6 Cal.App.4th 1 [7 Cal.Rptr.2d 748]

Failure to present psychiatric testimony at guilt phase did not prejudice defendant at penalty phase

People v. Welch (1999) 20 Cal.4th 701, 976 [85 Cal.Rptr.2d 203]

Failure to present psychiatric testimony at penalty phases of capital cases did not constitute ineffective assistance of counsel

Bonin v. Calderon (9th Cir. 1996) 77 F.3d 1155

*Bonin v. Calderon (9th Cir. 1995) 59 F.3d 815

Failure to press for specific finding on what evidence was to be suppressed

People v. Ellers (1980) 108 Cal.App.3d 943, 951 [166 Cal.Rptr. 888]

Failure to prevent defendant from testifying

People v. Stiltner (1982) 132 Cal.App.3d 216, 227 [183 Cal.Rptr. 790]

Failure to promptly bring a discovery motion to compel production of crucial defense witnesses

- In re Schiering (1979) 92 Cal.App.3d 429 [154 Cal.Rptr. 847]
- Failure to raise contentions of arguable merit on appeal
- Smith v. Robbins (2000) 528 U.S. 259 [120 S.Ct. 746]
- Delgado v. Lewis (9th Cir. 2000) 223 F.3d 976
- People v. Lang (1974) 11 Cal.3d 134 [113 Cal.Rptr. 9]
- In re Walker (1974) 10 Cal.3d 764, 782 [112 Cal.Rptr. 177]
- Failure to raise crucial defense
- Jennings v. Woodford (9th Cir. 2002) 290 F.3d 1006
- People v. Frierson (1979) 25 Cal.3d 142, 157 [158 Cal.Rptr. 281]
- People v. Stanworth (1974) 11 Cal.3d 588, 607 [114 Cal.Rptr. 250]
- In re Downs (1970) 3 Cal.3d 694 [91 Cal.Rptr. 612]
- *People v. McDowell (1968) 69 Cal.2d 737 [73 Cal.Rptr. 1]
- People v. Pinsky (1979) 95 Cal.App.3d 194 [157 Cal.Rptr. 13]
- People v. Farley (1979) 90 Cal.App.3d 851, 864 [153 Cal.Rptr. 695]
- In re Grissom (1978) 85 Cal.App.3d 840, 846 [150 Cal.Rptr. 96]
- People v. Corona (1978) 80 Cal.App.3d 684 [145 Cal.Rptr. 894]
- People v. Rodriguez (1977) 73 Cal.App.3d 1023 [141 Cal.Rptr. 118]
- In re Miller (1973) 33 Cal.App.3d 1005 [109 Cal.Rptr. 648]
- *People v. Welborn (1967) 257 Cal.App.2d 513 [65 Cal.Rptr. 8]
- People v. Pineda (1967) 253 Cal.App.2d 443, 465 [62 Cal.Rptr. 144]
- People v. Amado (1959) 167 Cal.App.2d 345 [334 P.2d 254]
- Failure to raise defense of double jeopardy
- People v. Belcher (1974) 11 Cal.3d 91, 101 [113 Cal.Rptr. 1]
- People v. Medina (1980) 107 Cal.App.3d 364, 370 [165 Cal.Rptr. 622]
- Failure to raise every defense
- People v. Tirado (1984) 151 Cal.App.3d 341, 354-356 [198 Cal.Rptr. 682]
- Failure to raise potentially meritorious defense
- Jennings v. Woodford (9th Cir. 2002) 290 F.3d 1006
- Brubaker v. Dickson (1962) 310 F.2d 30
- People v. Collie (1981) 30 Cal.3d 43, 49-58 [177 Cal.Rptr. 458, 634 P.2d 534]
- People v. Pope (1979) 23 Cal.3d 412 [152 Cal.Rptr. 732]
- People v. Rhoden (1972) 6 Cal.3d 519 [99 Cal.Rptr. 751]
- People v. Rosales (1984) 153 Cal.App.3d 353, 361-362 [200 Cal.Rptr. 310]
- People v. Ceballos (1980) 107 Cal.App.3d 23, 27 [165 Cal.Rptr. 430]
- People v. Zimmerman (1980) 102 Cal.App.3d 647 [161 Cal.Rptr. 669]
- People v. Avalos (1979) 98 Cal.App.3d 701, 712 [159 Cal.Rptr. 736]
- People v. Chapman (1975) 47 Cal.App.3d 597, 608 [121 Cal.Rptr. 315]
- People v. Langley (1974) 41 Cal.App.3d 339, 348 [116 Cal.Rptr. 80]
- People v. Cortez (1970) 13 Cal.App.3d 317, 327 [91 Cal.Rptr. 660]
- People v. Saidi-Tabatabai (1970) 7 Cal.App.3d 981, 987 [86 Cal.Rptr. 866]
- People v. Glover (1967) 257 Cal.App.2d 502, 507 [65 Cal.Rptr. 219]
- Failure to raise statute of limitations argument on appeal
- People v. Rose (1972) 28 Cal.App.3d 415 [104 Cal.Rptr. 702]
- Failure to request a crucial jury instruction
- People v. Camden (1976) 16 Cal.3d 808 [129 Cal.Rptr. 438]
- Failure to request jury instructions as to lesser offenses
- People v. Allison (1966) 245 Cal.App.2d 568 [54 Cal.Rptr. 148]
- Failure to require prosecution to elect
- People v. Dunnahoo (1984) 152 Cal.App.3d 548 [199 Cal.Rptr. 542]
- Failure to research the law
- People v. Rosales (1984) 153 Cal.App.3d 353, 361 [200 Cal.Rptr. 310]
- Failure to seek evidence
- People v. Darwiche (1984) 152 Cal.App.3d 630, 643 [199 Cal.Rptr. 806]
- Failure to seek severance
- *People v. Ottombrino (1982) 127 Cal.App.3d 574, 582 [179 Cal.Rptr. 676]
- Failure to stipulate intent not at issue
- People v. Rios (1992) 7 Cal.App.4th 507
- Failure to stipulate to prior felony convictions
- People v. Kent (1981) 125 Cal.App.3d 207 [178 Cal.Rptr. 28]
- Failure to submit jury instructions on lesser included offenses
- People v. Finney (1980) 110 Cal.App.3d 705, 711 [168 Cal.Rptr. 80]
- Failure to subpoena a critical witness
- People v. Williams (1980) 102 Cal.App.2d 1018, 1030 [162 Cal.Rptr. 748]
- Failure to urge acceptance of favorable plea bargain
- U.S. v. Day (9th Cir. 2002) 285 F.3d 1167
- People v. Bennett (1988) 202 Cal.App.3d 816 [248 Cal.Rptr. 767]
- Failure to use reasonable diligence
- Wiley v. County of San Diego (1998) 19 Cal.4th 532 [79 Cal.Rptr.2d 672]
- Schultz v. Harney (1994) 27 Cal.App.4th 1611, 1627
- Alberton v. State Bar (1984) 37 Cal.3d 1, 13-14 [206 Cal.Rptr. 373]
- Filing of "no issue brief"
- Smith v. Robbins (2000) 528 U.S. 259 [120 S.Ct. 746]
- In re Joyleaf W. (1984) 150 Cal.App.3d 865 [198 Cal.Rptr. 114]
- People v. Bloom (1989) 48 Cal.3d 1194 [259 Cal.Rptr. 669]
- Fourth Amendment
- counsel not ineffective when tactical choice made to forego
- U.S. v. \$30,400 in U.S. Currency & Jeremiah Haskins (1993) 2 F.3d 328
- Habeas relief sought based upon tainted prior state conviction which was used to enhance sentence
- Evenstad v. United States (9th Cir. 1992) 978 F.2d 1154
- Habitual disregard for needs of clients
- In re Vargas (2000) 83 Cal.App.4th 1125 [100 Cal.Rptr.2d 265]
- In propria persona
- advisory counsel
- People v. Doane (1988) 200 Cal.App.3d 852 [246 Cal.Rptr. 366]
- Inactive attorney
- People v. Ngo (1996) 14 Cal.4th 30 [57 Cal.Rptr.2d 456]
- In re Johnson (1992) 1 Cal.App.4th 689
- People v. Hinkley (1987) 193 Cal.App.3d 383 [238 Cal.Rptr. 272]
- Indigent defendant constitutionally entitled to counsel's best argument for appeal before court rules on withdrawal
- Delgado v. Lewis (9th Cir. 2000) 223 F.3d 976
- United States v. Griffy (9th Cir. 1990) 895 F.2d 561
- Juvenile dependency proceeding father accused of sexual abuse is entitled to effective assistance of counsel
- In re Emilye A. (1992) 9 Cal.App.4th 1695
- Lack of commitment
- People v. Davis (1978) 85 Cal.App.3d 916, 929 [149 Cal.Rptr. 777]
- Lack of confidence by defendant in attorney's abilities
- People v. Booker (1977) 69 Cal.App.3d 654, 668 [138 Cal.Rptr. 347]
- Lack of diligence in preparation
- People v. Mayfield (1993) 5 Cal.App.4th 142
- People v. Jackson (1980) 28 Cal.3d 264, 288 [168 Cal.Rptr. 603]
- In re Williams (1969) 1 Cal.3d 168 [81 Cal.Rptr. 784]
- People v. Hisquierdo (1975) 45 Cal.App.3d 397, 403 [119 Cal.Rptr. 378]
- *People v. Hoffman (1970) 7 Cal.App.3d 39
- Lack of zealous defense
- Hart v. Gomez (9th Cir. 1999) 174 F.3d 1067

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- Delgado v. Lewis (9th Cir. 2000) 223 F.3d 976
People v. Strickland (1974) 11 Cal.3d 946 [114 Cal.Rptr. 632, 523 P.2d 672]
 Licensed attorneys who are not active members of the State Bar of California
 effect on underlying matter
 *People v. Barillas (1996) 45 Cal.App.4th 1233 [53 Cal.Rptr.2d 418]
People v. Medler (1986) 177 Cal.App.3d 927 [223 Cal.Rptr. 401]
Gomez v. Roney (1979) 88 Cal.App.3d 274 [151 Cal.Rptr. 756]
 Mitigation strategy was factually unsupported and portrayed client inaccurately and unflatteringly
Visciotti v. Woodford (9th Cir. 2002) 288 F.3d 1097
 Motion
 evidence hearing not required in motion to vacate sentence because of ineffective assistance of counsel
Shah v. United States (9th Cir. 1989) 878 F.2d 1156
 "No-merit brief" by appellate attorney does not violate constitutional right to effective assistance of counsel
Smith v. Robbins (2000) 528 U.S. 259 [120 S.Ct. 746]
 "No-merit brief" by appellate attorney may violate constitutional right to effective assistance of counsel
 *Davis v. Kramer (9th Cir. 1999) 167 F.3d 494
 Not found
Bell v. Cone (2002) 535 U.S. 685 [122 S.Ct. 1843]
 at guilt phase
Mayfield v. Woodford (9th Cir. 2001) 270 F.3d 915
 at probation revocation hearing
United States v. Edward E. Allen (9th Cir. 1998) 157 F.3d 661
 failure to call self-defense witnesses
Wilson v. Henry (9th Cir. 1999) 185 F.3d 986
 failure to conduct direct exam of witnesses because of perjury concern
People v. Gadson (1993) 19 Cal.App.4th 1700 [24 Cal.Rptr. 219]
 failure to investigate and present diminished capacity defense not ineffective assistance of counsel
In re Avena (1996) 12 Cal.4th 694 [49 Cal.Rptr.2d 413]
 failure to object to admonishment in jury's presence
People v. Chong (1999) 76 Cal.App.4th 232 [90 Cal.Rptr.2d 198]
 failure to present case differently
United States v. Olson (9th Cir. 1991) 925 F.3d 1170
 failure to present cumulative mitigating evidence was strategic
Mayfield v. Calderon (9th Cir. 2000) 229 F.3d 895
 failure to present expert opinion testimony undermining prosecution's theory when it adds nothing to evidence already before jury
Ainsworth v. Calderon (9th Cir. 1998) 138 F.3d 77
People v. Adkins (2002) 103 Cal.App.4th 942 [127 Cal.Rptr.2d 236]
 failure to raise weak issues
U.S. v. Baker (9th Cir. 2001) 256 F.3d 855
 failure to win suppression motion based on police interception of cordless telephone transmissions not ineffective assistance of counsel
People v. Chavez (1996) 44 Cal.App.4th 1144 [52 Cal.Rptr.2d 347]
 tactical decision to volunteer defendant's multiple prior convictions during direct examination
People v. Mendoza (2000) 78 Cal.App.4th 918 [93 Cal.Rptr.2d 216]
 Offering proof of client incompetence to stand trial over client objection
 *People v. Bolden (1979) 99 Cal.App.3d 375
 Penalty paid by counsel, appeal is moot
Wax v. Infante (1982) 138 Cal.App.3d 138 [187 Cal.Rptr. 686]
 Permitting defendant to testify at preliminary hearing
People v. White (1981) 118 Cal.App.3d 767, 772
 Plea bargain entered into by coercion
In re Vargas (2000) 83 Cal.App.4th 1125 [100 Cal.Rptr.2d 265]
 "Plea bargain" not coercive unless counsel was aware of coercion
In re Ibarra (1983) 34 Cal.3d 277
 Post indictment grand jury subpoena of target's counsel does not result in ineffective assistance of counsel
United States v. Perry (9th Cir. 1988) 857 F.2d 1346
 Prejudice by defendant's counsel for alleged deficiencies is not necessary if counsel's performance is not deficient
LaGrand v. Stewart (9th Cir. 1998) 133 F.3d 1253
 Public defender present at sentencing unfamiliar with defendant and facts of case
People v. Vattelli (1971) 15 Cal.App.3d 54, 61
 Public defenders immune from suit
 Federal Civil Procedure section 1983
Glover v. Tower (9th Cir. 1983) 700 F.2d 556, 558
 exception to immunity
 -failure of deputy public defender to properly investigate information leading to defendant's innocence is not immunized under Government Code § 820.2
Barner v. Leeds (2000) 24 Cal.4th 676 [102 Cal.Rptr.2d 97]
 Public defender's office representing defendant had previously represented a witness in the case
People v. Anderson (1976) 59 Cal.App.3d 831, 843
 Reduction of conviction makes allegation moot
People v. Spring (1984) 153 Cal.App.3d 1199, 1208
 Refusal to allow defendant to testify
 *People v. Strawder (1973) 34 Cal.App.3d 370, 381 [108 Cal.Rptr. 901]
 Representation by different deputy public defenders at various stages of prosecution
People v. Martinez (1956) 145 Cal.App.2d 361, 366 [302 P.2d 643]
 Request for new counsel
 request not required to come through current counsel – defendant may properly request
People v. Winbush (1988) 205 Cal.App.3d 987 [252 Cal.Rptr. 722]
 Reversal
People v. Jerome (1984) 160 Cal.App.3d 1087, 1095-1096 [207 Cal.Rptr. 199]
 Right of every criminal defendant
 timely request to substitute retained counsel for court appointed counsel
People v. Stevens (1984) 156 Cal.App.3d 1119, 1129 [203 Cal.Rptr. 505]
 to discharge retained counsel
People v. Lara (2001) 86 Cal.App.4th 139 [103 Cal.Rptr.2d 201]
 to effective assistance of counsel
People v. Shelley (1984) 156 Cal.App.3d 521, 527-528 [202 Cal.Rptr. 874]
 Right to counsel at interrogation
People v. Manson (1980) 61 Cal.App.3d 102 [132 Cal.Rptr. 265]
 Right to new counsel – standard
People v. Marsden (1970) 2 Cal.3d 118, 123 [84 Cal.Rptr. 156]
Ng v. Superior Court (1997) 52 Cal.App.4th 1010 [61 Cal.Rptr.2d 49]
 Role of defense attorney
People v. Horning (1984) 150 Cal.App.3d 1015, Mod. 152 Cal.App.3d 579a
 Single counsel representing co-defendants with conflicting interests
People v. Easley (1988) 46 Cal.3d 712 [250 Cal.Rptr. 855]
Gendron v. State Bar (1983) 35 Cal.3d 409 [197 Cal.Rptr. 590]
People v. Mroczko (1983) 35 Cal.3d 86 [197 Cal.Rptr. 52]
 *People v. Hathcock (1973) 8 Cal.3d 599, 612 [105 Cal.Rptr. 540, 504 P.2d 457]

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- People v. Elston (1982) 130 Cal.App.3d 721 [182 Cal.Rptr. 30]
In re Noday (1981) 125 Cal.App.3d 507 [178 Cal.Rptr. 653]
People v. Angulo (1978) 85 Cal.App.3d 514 [148 Cal.Rptr. 517]
People v. Locklar (1978) 84 Cal.App.3d 224 [148 Cal.Rptr. 322]
People v. Karlin (1964) 231 Cal.App.2d 227 [41 Cal.Rptr. 786] LA 471
- Sixth Amendment may require substitution
Schell v. Witek (1999) 181 F.3d 1094
People v. Stankewitz (1990) 51 Cal.3d 72 [793 P.2d 23]
- Standard of proof in malpractice cases
Wiley v. County of San Diego (1998) 19 Cal.4th 532 [79 Cal.Rptr.2d 672]
Lynch v. Warwick (2002) 95 Cal.App.4th 267 [115 Cal.Rptr.2d 391]
Tibor v. Superior Court (1997) 52 Cal.App.4th 1359 [61 Cal.Rptr.2d 326]
- Standard of review of ineffective assistance of counsel
Bell v. Cone (2002) 535 U.S. 685 [122 S.Ct. 1843]
Strickland v. Washington (1984) 466 U.S. 668, 687-693
Avila v. Galaza (9th Cir. 2002) 297 F.3d 911
Caro v. Woodford (9th Cir. 2002) 280 F.3d 1247
Jennings v. Woodford (9th Cir. 2002) 290 F.3d 1006
Karis v. Calderon (9th Cir. 2002) 283 F.3d 1117
Luna v. Cambra (9th Cir. 2002) 306 F.3d 954
U.S. v. Day (9th Cir. 2002) 285 F.3d 1167
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Lockhart v. Terhune (9th Cir. 2001) 250 F.3d 1223
U.S. v. Christakis (9th Cir. 2001) 238 F.3d 1164
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People v. Pope (1979) 23 Cal.3d 412, 425-426 [152 Cal.Rptr. 732]
People v. Adkins (2002) 103 Cal.App.4th 942 [127 Cal.Rptr.2d 236]
People v. Bennett (1988) 202 Cal.App.3d 816 [248 Cal.Rptr. 767]
- parental rights
In re O.S. (2002) 102 Cal.App.4th 1402 [126 Cal.Rptr.2d 571]
- Stipulation by counsel as to chemical composition of contraband found in possession of defendant
People v. McCoy (1974) 40 Cal.App.3d 854, 859 [115 Cal.Rptr. 559]
- Submission of case on grand jury proceedings transcript
People v. Phillips (1973) 31 Cal.App.3d 483, 486 [107 Cal.Rptr. 386]
- Submission of case on preliminary hearing transcript
People v. Horner (1970) 9 Cal.App.3d 23, 29 [87 Cal.Rptr. 917]
People v. Honore (1969) 2 Cal.App.3d 295, 302 [82 Cal.Rptr. 639]
People v. Lucas (1969) 1 Cal.App.3d 637 [81 Cal.Rptr. 840]
- Summation by defense counsel includes concession to jury that no reasonable doubt existed on factual issues in dispute
United States v. Swanson (9th Cir. 1991) 943 F.2d 1070
- Suspension for non-payment of dues not enough to disqualify
People v. Garcia (1983) 147 Cal.App.3d 409 [195 Cal.Rptr. 138]
- Tactical decision
Bell v. Cone (2002) 535 U.S. 685 [122 S.Ct. 1843]
People v. Wade (1986) 43 Cal.3d 366 [233 Cal.Rptr. 732]
People v. Mendoza (2000) 78 Cal.App.4th 918 [93 Cal.Rptr.2d 216]
- Test: beyond reasonable doubt that no prejudice resulted
U.S. v. Tucker (9th Cir. 1983) 716 F.2d 576
 objective standard of reasonableness
United States v. Freeny (9th Cir. 1988) 841 F.2d 1000
- Testimony damaging to defendant elicited on cross-examination by defense counsel
People v. Reeves (1980) 105 Cal.App.3d 444 [164 Cal.Rptr. 426]
- Three strikes cases
*Garcia v. Superior Court (1995) 40 Cal.App.4th 552 [46 Cal.Rptr.2d 913]
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- Trial attorney's failure to advise defendant of his right to appeal
Lozada v. Deeds (9th Cir. 1992) 964 F.2d 956
- Trial conducted by certified law student
People v. Perez (1979) 24 Cal.3d 133, 138 [155 Cal.Rptr. 176]
- Trial counsel strategy
Mayfield v. Calderon (9th Cir. 2000) 229 F.3d 895
People v. Cretsinger (1984) 160 Cal.App.3d 938, 946 [207 Cal.Rptr. 40]
In re Noay (1981) 125 Cal.App.3d 507 [178 Cal.Rptr. 653]
- Trial court denial of motion to substitute, denies right of effective assistance of counsel
Schell v. Witek (1999) 181 F.3d 1094
People v. Turner (1992) 7 Cal.App.4th 1214
People v. Yackee (1984) 161 Cal.App.3d 843, 848 [208 Cal.Rptr. 44]
- Trial court denial of motion to withdraw
 court has discretion
People v. Turner (1992) 7 Cal.App.4th 913
People v. Brown (1988) 203 Cal.App.3d 1335
- Trial record inadequate to show illegality of search
People v. Tello (1997) 15 Cal.App.4th 264 [62 Cal.Rptr.2d 437]
- Unauthorized practice of law
People v. Johnson (1990) 224 Cal.App.3d 52
- Use of word "crazy" to characterize defendant not ineffective assistance because reference was followed by reasoned argument and was reasonable strategy
People v. Welch (1999) 20 Cal.4th 701, 976 [85 Cal.Rptr.2d 203]
- Volunteering defendant's multiple prior convictions during direct examination as a tactical decision found not to be ineffective assistance of counsel
People v. Mendoza (2000) 78 Cal.App.4th 918 [93 Cal.Rptr.2d 216]
- Waiver of attorney-client privilege
People v. Andrade (2000) 79 Cal.App.4th 651 [94 Cal.Rptr.2d 314]
- Waiver of right to appeal includes waiver of right to argue ineffective assistance of counsel
U.S. v. Nunez (9th Cir. 2000) 223 F.3d 956
- Waiving trial by jury
People v. Armenta (1972) 22 Cal.App.3d 823, 827 [99 Cal.Rptr. 736]
- Warning defendant before jury of possibility of impeachment with prior felonies
People v. Stiltner (1982) 132 Cal.App.3d 216, 226 [183 Cal.Rptr. 790]
- When defendant acts as co-counsel
People v. Spencer (1984) 153 Cal.App.3d 931, 935-940
- Withdrawal of guilty plea
In re Artis (1982) 127 Cal.App.3d 699
- Withdrawal of nolo contendere plea
People v. Maguire (1998) 67 Cal.App.4th 1022 [79 Cal.Rptr.2d 573]
People v. Garcia (1991) 227 Cal.App.3d 1369 [278 Cal.Rptr. 517]
- Withdrawal of skilled co-counsel prejudices criminal defendant
People v. Gzikowski (1982) 32 Cal.3d 580 [186 Cal.Rptr. 339, 651 P.2d 1145]
- Writ filed in Superior Court for factual determination of issues
People v. Munoz (1984) 157 Cal.App.3d 999 [204 Cal.Rptr. 271]

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- Immigration cases
 denial of due process only if the proceeding was so fundamentally unfair that the alien was prevented from reasonably presenting his case
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INTEREST

failure to adequately advise clients in immigration matters
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failure to file timely petition for review of Board of Immigration Appeals decision
Dearinger v. Reno (9th Cir. 2000) 232 F.3d 1042

Parental rights
failure to take steps to establish
In re O.S. (2002) 102 Cal.App.4th 1402 [126 Cal.Rptr.2d 571]
parent may raise ineffective assistance of counsel claim by habeas corpus petition to contest parental rights termination
In re Carrie M. (2000) 90 Cal.App.4th 530 [108 Cal.Rptr.2d 856]

Standard of review
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INTEREST [See Client trust account, interest bearing accounts.]

Fee, charging interest, financing.]
Expense of interest on short term loans is not ordinary and necessary business expense
Margolis v. U.S. (N.D. Cal. 1983) 570 F.Supp. 170, 175

On client's funds
Phillips v. Washington Legal Foundation (1998) 524 U.S. 156 [118 S.Ct. 1925]
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On partnership assets
Jewel v. Boxer (1984) 156 Cal.App.3d 171, 181 [203 Cal.Rptr. 13]

On unpaid fees
California Constitution Art. 15
Usury § 1, par. 2
CAL 1980-53, SD 1983-1

Prejudgment interest rate is set by state in which court sits
Shakey's Inc. v. Covalt (9th Cir. 1983) 704 F.2d 426
Turner v. Japan Lines, Ltd. (9th Cir. 1983) 702 F.2d 752, 757

INTERFERENCE WITH PROSPECTIVE ADVANTAGE [See Practice of law.]

INVOLUNTARY ENROLLMENT AS AN INACTIVE MEMBER OF THE STATE BAR
Business and Professions Code section 6007

JUDGE [See Court. Letterhead. Political activity. Public office.]
California Code of Judicial Conduct
California Constitution Article VI, section 18(a)
Willens v. Commission on Judicial Qualifications (1973) 10 Cal.3d 451 [110 Cal.Rptr. 713, 516 P.2d 1]
In re Tindall (1963) 60 Cal.2d 469 [34 Cal.Rptr. 849, 386 P.2d 473]
*Willens v. Cory (1975) 53 Cal.App.3d 104 [125 Cal.Rptr. 670]

Appeal premature until remedies exhausted for complaints of judicial misconduct
In re Charge of Judicial Misconduct (9th Cir. Judicial Council 1983) 700 F.2d 1391

As witness
Silliman v. Municipal Court (1983) 143 Cal.App.3d 327 [191 Cal.Rptr. 735]

Attorney as temporary judge, referee, or court-appointed arbitrator
Rule 1-710, Rules of Professional Conduct (effective March 18, 1999)

Attorney fees, setting unreasonable amounts
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Authority
disqualify law firm
Chambers v. Superior Court (1981) 121 Cal.App.3d 893, 900-902 [175 Cal.Rptr. 575]
limits on
Gubler v. Commission on Judicial Performance (1984) 37 Cal.3d 27, 55-59 [207 Cal.Rptr. 171]

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announced bias or prejudice
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Pratt v. Pratt (1903) 141 Cal. 247, 250-251
Hall v. Harker (1999) 69 Cal.App.4th 836
People v. Fatone (1985) 165 Cal.App.3d 1164 [211 Cal.Rptr. 288]
In re Henry C. (1984) 161 Cal.App.3d 646, 654 [207 Cal.Rptr. 751]
In re Martin (1977) 71 Cal.App.3d 472 [139 Cal.Rptr. 451]
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Board of directors
permits use of name
-as member
LA 116 (1937)
-as officer
LA 116 (1937)
serving as member of
LA 116 (1937)

Bribes
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Censure
causes for
-conduct prejudicial to the administration of justice that brings the judicial office into disrepute
Broadman v. Commission on Judicial Performance (1998) 18 Cal.4th 1079 [77 Cal.Rptr.2d 408]
In re Norman W. Gordon (1996) 13 Cal.4th 472 [53 Cal.Rptr.2d 788]
In re Rasmussen (1987) 43 Cal.3d 536 [236 Cal.Rptr. 152]
In re Stevens (1981) 28 Cal.3d 873 [172 Cal.Rptr. 676, 625 P.2d 219]
In re Glickfield (1971) 3 Cal.3d 891 [92 Cal.Rptr.278, 479 P.2d 638]
In re Chargin (1970) 2 Cal.3d 617 [87 Cal.Rptr. 709, 471 P.2d 29]
-failure to perform duties within the meaning of Cal. Constitution, Art. VI, section 18
Doan v. Commission on Judicial Performance (1995) 11 Cal.4th 294 [45 Cal.Rptr.2d 254]
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In re Jensen (1978) 24 Cal.3d 72 [152 Cal.Rptr. 503, 593 P.2d 200]
-injunctious conduct
*McCartney v. Commission on Judicial Qualifications (1974) 12 Cal.3d 512 [116 Cal.Rptr. 260, 526 P.2d 268]
-publicly commenting on pending cases
Broadman v. Commission on Judicial Performance (1998) 18 Cal.4th 1079 [77 Cal.Rptr.2d 408]
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-willful misconduct in office
Broadman v. Commission on Judicial Performance (1998) 18 Cal.4th 1079 [77 Cal.Rptr.2d 408]
Doan v. Commission on Judicial Performance (1995) 11 Cal.4th 294 [45 Cal.Rptr.2d 254]
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Kloepfer v. Commission on Judicial Performance (1989) 49 Cal.3d 826 [264 Cal.Rptr. 100]
In re Chavez (1973) 9 Cal.3d 846 [109 Cal.Rptr. 79, 512 P.2d 303]

- In re Sanchez (1973) 9 Cal.3d 844 [109 Cal.Rptr. 78, 512 P.2d 302]
- Commission on Judicial Performance (formerly Commission on Judicial Qualifications)
- confidentiality of proceedings
 - Mosk v. Superior Court (1979) 25 Cal.3d 474 [159 Cal.Rptr. 494, 601 P.2d 1030]
 - *McCartney v. Commission on Judicial Qualifications (1974) 12 Cal.3d 512, 520-521 [116 Cal.Rptr. 260, 526 P.2d 268]
 - disclosure of the votes of individual commission members on issues of judicial discipline following formal proceeding
 - The Recorder v. Commission on Judicial Performance (1999) 72 Cal.App.4th 258
 - jurisdiction [See Scope of authority.]
 - location of hearings
 - *McCartney v. Commission on Judicial Qualifications (1974) 12 Cal.3d 512, 520-521 [116 Cal.Rptr. 260, 526 P.2d 268]
 - membership
 - propriety of lay persons on commission
 - McComb v. Commission on Judicial Performance (1977) 19 Cal.3d Spec.Trib.Supp.1, 11-12 [138 Cal.Rptr. 459, 564 P.2d 1]
 - moral turpitude
 - Adams v. Commission on Judicial Performance (1994) 8 Cal.4th 630 [34 Cal.Rptr.2d 641]
 - procedure
 - discovey
 - *McCartney v. Commission on Judicial Qualifications (1974) 12 Cal.3d 512, 520 [116 Cal.Rptr. 260, 526 P.2d 268]
 - notice, effect of procedural defect
 - *McCartney v. Commission on Judicial Qualifications (1974) 12 Cal.3d 512, 519-520 [116 Cal.Rptr. 260, 526 P.2d 268]
 - qualified to act as judge pro tempore
 - may do so only on stipulation of all parties
 - Yetenkian v. Superior Court (1983) 140 Cal.App.3d 361 [189 Cal.Rptr. 458]
 - requirement under Proposition 190 to disclose the votes of individual commission members in disciplinary proceeding against a judge
 - The Recorder v. Commission on Judicial Performance (1999) 72 Cal.App.4th 258
 - review of findings/recommendations by Supreme Court
 - power to make independent findings of fact/impose sanctions
 - Fitch v. Commission on Judicial Performance (1995) 9 Cal.4th 552 [37 Cal.Rptr.2d 581]
 - Spruance v. Commission on Judicial Qualifications (1975) 13 Cal.3d 778, 782-784 [119 Cal.Rptr. 841, 532 P.2d 1209]
 - *McCartney v. Commission on Judicial Qualifications (1974) 12 Cal.3d 512, 521-531 [116 Cal.Rptr. 260, 526 P.2d 268]
 - Geiler v. Commission on Judicial Qualifications (1973) 10 Cal.3d 270 [110 Cal.Rptr. 201, 515 P.2d 1]
 - Stevens v. Commission on Judicial Qualifications (1964) 61 Cal.2d 886 [39 Cal.Rptr. 397, 393 P.2d 709]
 - scope of authority
 - Broadman v. Commission on Judicial Performance (1998) 18 Cal.4th 1079 [77 Cal.Rptr.2d 408]
 - Mosk v. Superior Court (1979) 25 Cal.3d 474 [159 Cal.Rptr. 494, 601 P.2d 1030]
 - Geiler v. Commission on Judicial Qualifications (1973) 10 Cal.3d 270, 275-276 [110 Cal.Rptr. 201, 515 P.2d 1]
 - power to compel testimony
 - McComb v. Superior Court (1977) 68 Cal.App.3d 89 [137 Cal.Rptr. 233]
- Communication with judicial officers
- about court clerk
 - SF 1973-2
 - about pending matter
 - LA(l) 1979-2
 - judge engaged in improper ex parte conversations
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 - administrative law judge
 - not within the compass of the term "judicial officer"
 - Zaheri Corp. v. New Motor Vehicle Board (Mitsubishi Motor Sales of America) (1997) 55 Cal.App.4th 1305 [64 Cal.Rptr.2d 705]
 - another judge regarding the case
 - People v. Hernandez (1984) 160 Cal.App.3d 725, 738-740, 744-751 [206 Cal.Rptr. 843]
 - impermissible even if attorney is not counsel
 - LA(l) 1979-2
 - permissible when no case is pending
 - People v. Laue (1982) 130 Cal.App.3d 1055 [182 Cal.Rptr. 99]
 - by attorney
 - ex parte
 - Rule 7-108, Rules of Professional Conduct (operative until May 26, 1989)
 - Rule 5-300, Rules of Professional Conduct (operative as of May 27, 1989)
 - Snyder v. State Bar (1976) 18 Cal.3d 286, 288-294 [133 Cal.Rptr. 864, 555 P.2d 1104]
 - Heavey v. State Bar (1976) 17 Cal.3d 553, 555-560 [131 Cal.Rptr. 406, 551 P.2d 1238]
 - Zaheri Corp. v. New Motor Vehicle Board (Mitsubishi Motor Sales of America) (1997) 55 Cal.App.4th 1305 [64 Cal.Rptr.2d 705]
 - LA 387 (1980)
 - ex parte discussion with
 - Price v. State Bar (1982) 30 Cal.3d 537 [179 Cal.Rptr. 914, 638 P.2d 1311]
 - judge engaged in improper ex parte conversations
 - In the Matter of Jenkins (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 157
 - rehabilitation consultant
 - CAL 1985-85
 - filing briefs
 - without knowledge of opposing counsel
 - LA 56 (1928)
 - hearing officer/administrative law judge
 - Zaheri Corp. v. New Motor Vehicle Board (Mitsubishi Motor Sales of America) (1997) 55 Cal.App.4th 1305 [64 Cal.Rptr.2d 705]
 - CAL 1984-82
 - publication of article regarding pending case
 - LA 451 (1988), LA 343 (1974)
 - socializing outside the work environment
 - OR 94-001
 - upon merits of a contested issue over which he presides in absence of opposing counsel
 - Rule 7-108, Rules of Professional Conduct (operative until May 26, 1989)
 - Rule 5-300, Rules of Professional Conduct (operative as of May 27, 1989)
 - In re Winnetka V. (1980) 28 Cal.3d 587, 592-593 and n.5 [169 Cal.Rptr. 713, 620 P.2d 163]
 - Snyder v. State Bar (1976) 18 Cal.3d 286, 288-294 [133 Cal.Rptr. 864, 555 P.2d 1104]
 - Heavey v. State Bar (1976) 17 Cal.3d 553, 555-560 [131 Cal.Rptr. 406, 551 P.2d 1238]
 - In re Darrell P. (1981) 121 Cal.App.3d 916 [175 Cal.Rptr. 682]
 - In re Jonathan S. (1979) 88 Cal.App.3d 468, 470-472 [151 Cal.Rptr. 810]
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- contested issue construed
 - People v. Laue (1982) 130 Cal.App.3d 1055, 1058-1062 [182 Cal.Rptr. 99]
- while case is pending
 - judge engaged in improper ex parte conversations
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 - CAL 1984-78
 - with jury
 - People v. Garcia (1984) 160 Cal.App.3d 82, 88-89 [206 Cal.Rptr. 468]
- Compelled retirement [See Retirement and Retirement benefits.]
- Conduct
 - prejudicial conduct insufficient to support recommendation of sanctions
 - People v. Rigney (1961) 55 Cal.2d 236 [10 Cal.Rptr. 625, 359 P.2d 23]
 - People v. Black (1957) 150 Cal.App.2d 494 [310 P.2d 472]
 - People v. Lancellotti (1957) 147 Cal.App.2d 723 [305 P.2d 926]
 - *People v. Huff (1955) 134 Cal.App.2d 182 [285 P.2d 17]
 - People v. Deacon (1953) 117 Cal.App.2d 206 [255 P.2d 98]
 - Etzel v. Rosenbloom (1948) 83 Cal.App.2d 758 [189 P.2d 848]
 - People v. Williams (1942) 55 Cal.App.2d 696 [131 P.2d 851]
 - *People v. Montgomery (1941) 47 Cal.App.2d 1 [117 P.2d 437]
 - Contempt, power to punish for contempt
 - Code of Civil Procedure section 178
 - Court proceedings
 - radio broadcast of
 - LA 88 (1935)
 - Defendant's right to have trial completed does not outweigh judge's duty to disqualify himself
 - United States v. Jaramillo (9th Cir. 1984) 745 F.2d 1245, 1249
 - Discipline
 - limitations on, grounds for
 - Gubler v. Commission on Judicial Performance (1984) 37 Cal.3d 27, 47-48 [207 Cal.Rptr. 171]
 - Discipline and removal of judges [See 53 A.L.R.3d 882, ff. re: suspension and removal 44 Texas L.Rev. 1117, ff. Frankel, Jack E., "Judicial Discipline and Removal" 68 A.L.R.3d 248 (1973) re: grounds for disqualification.]
 - confidentiality of proceedings
 - Gubler v. Commission on Judicial Performance (1984) 37 Cal.3d 27, 59-62 [207 Cal.Rptr. 171]
 - Disqualification
 - California Code of Judicial Conduct, Canon 3.C.
 - Code of Civil Procedure section 170
 - Little v. Kern County Superior Court (2002) 294 F.3d 1075
 - In re Georgetown Park Apartments (9th Cir. 1992) 143 B.R. 557
 - Fine v. Superior Court (2002) 97 Cal.App.4th 651 [119 Cal.Rptr.2d 376]
 - Cybermedia Inc. v. Superior Court (1999) 72 Cal.App.4th 910 [82 Cal.Rptr.2d 126]
 - People v. Barrera (1999) 70 Cal.App.4th 541 [82 Cal.Rptr.2d 755]
 - School District of Okaloosa County v. Superior Court (1997) 58 Cal.App.4th 1126 [68 Cal.Rptr.2d 612]
 - Ng v. Superior Court (1997) 52 Cal.App.4th 1010 [61 Cal.Rptr.2d 49]
 - Sunkyoung Trading (H.K.) Ltd. v. Superior Court (1992) 9 Cal.App.4th 282 [11 Cal.Rptr.2d 504]
 - People v. Whitfield (1986) 183 Cal.App.3d 299 [228 Cal.Rptr. 82]
 - In re Christian J. (1984) 155 Cal.App.3d 276 [202 Cal.Rptr. 54]
 - Penthouse International Ltd. v. Superior Court (1982) 137 Cal.App.3d 975 [187 Cal.Rptr. 535]
 - advice to another commissioner after disqualification
 - Gubler v. Commission on Judicial Performance (1984) 37 Cal.3d 27, 52-55 [207 Cal.Rptr. 171]
 - appellate tribunal
 - acting upon
 - Code of Civil Procedure section 170a
 - superior court
 - Code of Civil Procedure section 170.7
 - attorney as judge presides over a criminal defendant who had previously supplied him with illegal drugs
 - In re Scott (1991) 52 Cal.3d 968
 - based on race
 - People v. Superior Court (1992) 8 Cal.App.4th 873 [10 Cal.Rptr.2d 873]
 - bias or prejudice
 - Little v. Kern County Superior Court (2002) 294 F.3d 1075
 - Fletcher v. Commission on Judicial Performance (1998) 19 Cal.4th 865 [81 Cal.Rptr.2d 58]
 - Kaiser Foundation Hospitals, Inc. v. Superior Court of Los Angeles (1993) 19 Cal.4th 513
 - Davis v. Superior Court (1984) 158 Cal.App.3d 197 [204 Cal.Rptr. 398]
 - Garcia v. Superior Court (1984) 156 Cal.App.3d 670, 684-685 [203 Cal.Rptr. 290]
 - by criminal defendant
 - People v. Sheppard (1983) 143 Cal.App.3d 907 [192 Cal.Rptr. 427]
 - disqualified presiding judge loses jurisdiction over the matter and all subsequent orders and judgments are void
 - In re Jenkins (1999) 70 Cal.App.4th 1162 [83 Cal.Rptr.2d 232]
 - duties to call own witnesses but may not shift balance
 - People v. Handcock (1983) 145 Cal.App.3d Supp.25 [193 Cal.Rptr. 397]
 - failure of judge to disqualify himself after having previously represented one party as attorney was not reviewable on appeal following appellant's earlier failure to seek writ review
 - People v. Barrera (1999) 70 Cal.App.4th 541 [82 Cal.Rptr.2d 755]
 - frivolous motions to disqualify
 - Lebbos v. State Bar (1991) 53 Cal.3d 37 [806 P.2d 317]
 - Fine v. Superior Court (2002) 97 Cal.App.4th 651 [119 Cal.Rptr.2d 376]
 - gambling by
 - LA(l) 1976-6, LA(l) 1958-4
 - grounds for
 - California Code of Judicial Conduct, Canon 3.C
 - Code of Civil Procedure section 170
 - Code of Civil Procedure section 170.6
 - Ng v. Superior Court (1997) 52 Cal.App.4th 1010 [61 Cal.Rptr.2d 49]
 - Overton v. Superior Court (1994) 22 Cal.App.4th 112 [27 Cal.Rptr.2d 274]
 - degree of affinity between husband and wife
 - Code of Civil Procedure section 170.1
 - prejudice as
 - procedure for establishing
 - Code of Civil Procedure section 170.6
 - jurisdiction to proceed on subsequent "actions" once a proper challenge is made
 - Sunkyoung Trading (H.K.) Ltd. v. Superior Court (1992) 9 Cal.App.4th 282 [11 Cal.Rptr.2d 504]
 - master calendar judge is married to counsel involved in a case; previously represented police officers; or was formerly a police officer may be subject to disqualification
 - 75 Ops. Cal. Atty. Gen. 58 (3/25/92; No. 91-1112)
 - preliminary hearing judge not automatically disqualified from conducting criminal trial for same defendant

JUDGE

- People v. DeJesus (1995) 38 Cal.App.4th 1 [44 Cal.Rptr.2d 796]
prior representation of defendant
People v. Barrera (1999) 70 Cal.App.4th 541 [82 Cal.Rptr.2d 755]
statement of disqualification must be filed at earliest practical opportunity
Eckert v. Superior Court (Tebo) (1999) 69 Cal.App.4th 262 [81 Cal.Rptr.2d 467]
vicarious disqualification of a firm does not automatically follow the personal disqualification of the tainted attorney, a former settlement judge
County of Los Angeles v. United States District Court (Forsyth) (9th Cir. 2000) 223 F.3d 990
Disruptive and offensive conduct in courtroom of a judge who had recused himself from an attorney's case
Lebbos v. State Bar (1991) 53 Cal.3d 37 [806 P.2d 317]
Election campaign
contributions to
-by attorney
--no duty to advise adversary
LA 387 (1980)
fund raising for
SF 1974-6
lawyer-candidate
-opposing incumbent
--may question incumbent's qualifications
LA 304 (1968)
Error in jury instructions and sentencing
reversible
People v. Chagolla (1983) 144 Cal.App.3d 422 [193 Cal.Rptr. 711]
Evaluation by local bar association
Botos v. Los Angeles County Bar Assn. (1984) 151 Cal.App.3d 1083, 1088-1090 [199 Cal.Rptr. 236]
Ex parte discussion with
Price v. State Bar (1982) 30 Cal.3d 537 [179 Cal.Rptr. 914, 638 P.2d 1311]
about matter on appeal
CAL 1984-78
administrative law judge
CAL 1984-82
judge engaged in improper ex parte conversations with parties and counsel about matters coming before him as a judge
In the Matter of Jenkins (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 157
trial judge by prosecutor
McKenzie v. Risley (9th Cir. 1990) 915 F.2d 1396
Fair and true report of judicial proceedings is privileged and therefore not actionable
Grillo v. Smith (1983) 144 Cal.App.3d 868 [193 Cal.Rptr. 414]
Failure to perform duties [See Censure, causes for, this section.]
Frivolous allegations against, attorney disciplined for
Standing Com. on Dis. of United States v. Ross (9th Cir. 1984) 735 F.2d 1168, 1171
Gambling
LA(I) 1976-6, LA(I) 1958-4
Gifts and favors from litigants and counsel
In the Matter of Jenkins (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 157
Impartiality, protection of
In re Georgetown Park Apartments (9th Cir. 1992) 143 B.R. 557
CAL 1984-78
Injudicious conduct [See Censure, causes for, this section.]
Spruance v. Commission on Judicial Qualification (1973) 13 Cal.3d 778 [119 Cal.Rptr. 841, 532 P.2d 1209]
"Judge" defined
Zaheri Corp. v. New Motor Vehicle Board (Mitsubishi Motor Sales of America) (1997) 55 Cal.App.4th 1305 [64 Cal.Rptr. 705]
CAL 1984-82
Judicial officer defined
local bar association's arbitration panel is not a judicial officer
In the Matter of Kroff (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 838
Law lectures
delivery of
LA 129 (1940)
-for compensation
LA 129 (1940)
-to college students
LA 129 (1940)
Liability
absolute immunity applies to defamatory statements made by judge during settlement conference, but not to statements made during newspaper interview
Soliz v. Williams (1999) 74 Cal.App.4th 577 [88 Cal.Rptr.2d 184]
absolute immunity from for acts done in performance of official duties
Kimes v. Stone (9th Cir. 1996) 84 F.3d 1121
Stanislaus Food Products Co. v. P.U.C. (N.D. Cal. 1982) 560 F.Supp. 114, 117
immunity extended to state agencies that act in judicial capacity
Stanislaus Food Products Co. v. P.U.C. (N.D. Cal. 1982) 560 F.Supp. 114, 117
May rehear a pretrial issue when magistrate's order is clearly erroneous and contrary to law
Rockwell International, Inc. v. Pos-A-Traction Industries (1983) 712 F.2d 1324, 1325
Misconduct
alteration of court records
Fletcher v. Commission on Judicial Performance (1998) 19 Cal.4th 865 [81 Cal.Rptr.2d 58]
communication with real party in interest without notice to opposing party
Roberts v. Committee on Judicial Performance (1983) 33 Cal.3d 739 [190 Cal.Rptr.910]
impugning defense counsel
People v. Fatone (1985) 165 Cal.App.3d 1164 [211 Cal.Rptr. 288]
Must be final decision authority when magistrates are used for arbitration
Pacemaker Diag. Clinic v. Instromedix, Inc. (9th Cir. 1983) 712 F.2d 1305
Name and designation as judge
in journal of fraternal order
-judge contribute to publication cost
LA 100 (1936)
Name of, used
in legal directory
SF 1973-11
Non-judicial activity
business activity
LA(I) 1959-7
Perjury
judge solicited the commission of perjury in a federal investigation
In the Matter of Jenkins (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 157
Prejudicial conduct [See Removal, causes for. Censure, causes for. Conduct, prejudicial conduct insufficient to support recommendation of sanctions.]
extraction of attorney fees from bail deposits
Gubler v. Commission on Judicial Performance (1984) 37 Cal.3d 27, 41-42 [207 Cal.Rptr. 171]
ordering appearances of defendants for fee collection purposes
Gubler v. Commission on Judicial Performance (1984) 37 Cal.3d 27, 37-38, 43-46 [207 Cal.Rptr. 171]
prejudicial jury instructions, standard of miscarriage of justice

- People v. Taylor (1984) 156 Cal.App.3d 552, 556-557 [203 Cal.Rptr. 40]
- Presiding judge
 authority to rule on opinion of another judge
Micro/Vest Corp. v. Superior Court (1984) 150 Cal.App.3d 1085 [198 Cal. Rptr. 404]
- Pro tempore qualifications
Yetenkian v. Superior Court (1983) 140 Cal.App.3d 361 [189 Cal.Rptr. 458]
- Promotion of corporation by
 shares offered for sale to public
 LA 53 (1927)
- Quasi-judicial function of parole officials gives immunity relative to function prompting action
Anderson v. Boyd (9th Cir. 1983) 714 F.2d 906
- Radio broadcast of court proceedings
 LA 88 (1935)
- Recusal
 commissioner's bias against attorney
In re Marriage of Kelso (1998) 67 Cal.App.4th 374 [79 Cal.Rptr.2d 39]
 contempt proceedings involving attorney
 -criminal
In re Martin (1977) 71 Cal.App.3d 472 [139 Cal.Rptr. 451]
 failure of judge to disqualify himself after having previously represented one party as attorney was not reviewable on appeal following appellant's earlier failure to seek writ review
People v. Barrera (1999) 70 Cal.App.4th 541 [82 Cal.Rptr.2d 755]
 general notice of change in calendar judge mailed by superior court's public information office was insufficient to deny petitioner's peremptory challenge
Cybermedia Inc. v. Superior Court (1999) 72 Cal.App.4th 910 [82 Cal.Rptr.2d 126]
 legal grounds – impartiality
United States v. Arnpriester (9th Cir. 1994) 37 F.3d 466
Denardo v. Municipality of Anchorage (9th Cir. 1992) 974 F.2d 1200
United States v. Jaramillo (9th Cir. 1984) 745 F.2d 1245, 1247-1248
In re Georgetown Park Apartments (9th Cir. 1992) 143 B.R. 557
 precludes any further action in the case by the judge
Geldermann, Inc. v. Bruner (1991) 229 Cal.App.3d 662 [280 Cal.Rptr. 264]
 required if judge should have known of circumstances requiring disqualification, even absent actual knowledge
Liljeberg v. Health Services Acquisition Corporation (1988) 486 U.S. 847 [108 S.Ct. 2194]
- Reinstatement
 California Government Code section 75060.6
 after voluntary retirement due to disability
Davis v. Commission on Judicial Qualifications (1977) 73 Cal.App.3d 818 [141 Cal.Rptr. 75]
 review of findings as to fitness to hold judicial office
Davis v. Commission on Judicial Qualifications (1977) 73 Cal.App.3d 818 [141 Cal.Rptr. 75]
- Removal
 California Constitution Article VI, section 18(c)
 burden of proof
Geiler v. Commission on Judicial Qualifications (1973) 10 Cal.3d 270, 275 [110 Cal.Rptr. 201, 515 P.2d 1]
 causes for
 -"conduct prejudicial to the administration of justice that brings the judicial office into disrepute"
Wenger v. Commission on Judicial Performance (1981) 29 Cal.3d 615, 631-632, 643, 645 [175 Cal.Rptr. 420, 630 P.2d 954]
Cannon v. Commission on Judicial Qualifications (1975) 14 Cal.3d 678 [122 Cal.Rptr. 778, 537 P.2d 898]
- Spruance v. Commission on Judicial Qualifications (1975) 13 Cal.3d 778, 796, 797 [119 Cal.Rptr. 841, 532 P.2d 1209]
Geiler v. Commission on Judicial Qualifications (1973) 10 Cal.3d 270, 284-287 [110 Cal.Rptr. 201, 515 P.2d 1]
 -ex parte communication with parties
Fletcher v. Commission on Judicial Performance (1998) 19 Cal.4th 865 [81 Cal.Rptr.2d 58]
 -persistent failure or inability to perform judicial duties
Kennick v. Commission on Judicial Performance (1990) 50 Cal.3d 297 [787 P.2d 591]
 -willful misconduct in office
Wenger v. Commission on Judicial Performance (1981) 29 Cal.3d 615, 625, 630-631, 637, 645, 648, 650, 651 [175 Cal.Rptr. 420, 630 P.2d 954]
Cannon v. Commission on Judicial Qualifications (1975) 14 Cal.3d 678 [122 Cal.Rptr. 778, 537 P.2d 898]
Spruance v. Commission on Judicial Qualifications (1975) 13 Cal.3d 778, 795-799 [119 Cal.Rptr. 841, 532 P.2d 1209]
Geiler v. Commission on Judicial Qualifications (1973) 10 Cal.3d 270, 284-287 [110 Cal.Rptr. 201, 515 P.2d 1]
 discovery [See Commission on Judicial Performance, procedure – discovery.]
 jury trial
McComb v. Commission on Judicial Performance (1977) 19 Cal.3d Spec.Trib.Supp. 1, 10 [138 Cal.Rptr. 459, 564 P.2d 1]
 nature of proceedings
 -non-criminal
McComb v. Commission on Judicial Performance (1977) 19 Cal.3d Spec.Trib.Supp. 1, 8-10 [138 Cal.Rptr. 459, 564 P.2d 1]
 -not constituting civil action
McComb v. Commission on Judicial Performance (1977) 19 Cal.3d Spec.Trib.Supp. 1, 10 [138 Cal.Rptr. 459, 564 P.2d 1]
 persistent and pervasive conduct prejudicial to the administration of justice
Kloepfer v. Commission on Judicial Performance (1989) 49 Cal.3d 826 [264 Cal.Rptr 100]
Gonzalez v. Commission on Judicial Performance (1983) 33 Cal.3d 359 [188 Cal.Rptr. 880, 657 P.2d 372]
 procedure [See Commission on Judicial Performance, procedure.]
 retirement for disability
In re Roick (1978) 24 Cal.3d 74 [154 Cal.Rptr. 413, 592 P.2d 1165]
McComb v. Commission on Judicial Performance (1977) 19 Cal.3d Spec.Trib.Supp. 1, [138 Cal.Rptr. 459, 564 P.2d 1]
Davis v. Commission on Judicial Qualifications (1977) 73 Cal.App.3d 818 [141 Cal.Rptr. 75]
 special proceedings
 -alternative to impeachment
McComb v. Commission on Judicial Performance (1977) 19 Cal.3d Spec.Trib.Supp. 1, 8-10 [138 Cal.Rptr. 459, 564 P.2d 1]
 standard of proof required
McComb v. Commission on Judicial Performance (1977) 19 Cal.3d Spec.Trib.Supp. 1, 10-11 [138 Cal.Rptr. 459, 564 P.2d 1]
Geiler v. Commission on Judicial Qualifications (1973) 10 Cal.3d 270, 275 [110 Cal.Rptr. 201, 515 P.2d 1]
 Supreme Court Justice
 California Constitution Article VI, section 18(e)
 -selection of special tribunal
McComb v. Commission on Judicial Performance (1977) 19 Cal.3d Spec.Trib.Supp. 1, 7-8 [138 Cal.Rptr. 459, 564 P.2d 1]
 Represent/practice before

JUDICIAL SALE

LA(l) 1954-1
Resignation from judicial office; effect upon proceedings for disbarment
California Constitution Article VI, section 18
In re Craig (1938) 12 Cal.2d 93 [82 P.2d 442]
Retirement [See Removal, retirement for disability.]
benefits
Willens v. Commission on Judicial Qualifications (1973) 10 Cal.3d 451, 458 [110 Cal.Rptr. 713, 516 P.2d 1]
-as valuable property right
Davis v. Commission on Judicial Qualifications (1977) 73 Cal.App.3d 818, 825-826 [141 Cal.Rptr. 75]
-effect of criminal charges/conviction
Willens v. Commission on Judicial Performance (1973) 10 Cal.3d 451, 453 [110 Cal.Rptr. 713, 516 P.2d 1]
-interest on, withheld pending litigation as to entitlement
*Willens v. Cory (1975) 53 Cal.App.3d 104 [125 Cal.Rptr. 670]
pension rights [See Retirement, benefits.]
"salary" construed
Willens v. Commission on Judicial Performance (1973) 10 Cal.3d 451, 456 [110 Cal.Rptr. 713, 516 P.2d 1]
subsequent representation of one of the parties
Cho v. Superior Court (1995) 39 Cal.App.4th 113 [45 Cal.Rptr.2d 863]
Right to hire private counsel when county counsel has conflict of interest
Municipal Court v. Bloodgood (1982) 137 Cal.App.3d 29 [186 Cal.Rptr. 807]
Sanctions [See Removal. Censure. Automatic disqualification.]
contempt of court [See Contempt.]
improper when court uses mediator's report in violation of Evidence Code Section 1121 (mediation confidentiality)
Foxgate Homeowners' Association, Inc., v. Bramalea California, Inc. (2001) 26 Cal.4th 1 [108 Cal.Rptr.2d 642]
mitigating factors
Cannon v. Commission on Judicial Qualifications (1975) 14 Cal.3d 678, 706-708 [122 Cal.Rptr. 778, 537 P.2d 898]
Spruance v. Commission on Judicial Qualifications (1975) 13 Cal.3d 778, 800-803 [119 Cal.Rptr. 841, 532 P.2d 1209]
*McCartney v. Commission on Judicial Qualifications (1974) 12 Cal.3d 512, 539-540 [116 Cal.Rptr. 260, 526 P.2d 268]
money sanction for violation of lawful court order
-not applicable to advocacy of counsel
Civil Code section 177.5
remanding sanctions did not imply the appearance of impropriety
Yagman v. Republic Insurance (1993) 987 F.2d 1027
State Bar Court
conclusive weight given to disciplinary proceedings in Michigan despite lower standard of proof where the Michigan Supreme court found the evidence of misconduct overwhelming
In the Matter of Jenkins (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 157
in attorney criminal conviction matter, State Bar Court judge not authorized to require evidence beyond that which parties have presented
In the Matter of Bouyer (Review Dept. 1998) 3 State Bar Ct. Rptr. 888
State Supreme Court authority to appoint judges of the State Bar Court not impaired by permissible appointment mechanisms specified by the legislature
Obrien, et al. v. Jones, et al. (2000) 23 Cal.4th 40 [96 Cal.Rptr.2d 205, 999 P.2d 95]
State Bar of California
jurisdiction
-over judges re disbarment proceedings
Christopher v. State Bar (1945) 26 Cal.2d 663, 666-668 [161 P.2d 1]
Cf. dissenting opinion of Carter. J.

Statutory test for disqualification is whether reasonable person with knowledge of all facts would conclude that judge's impartiality might reasonably be questioned

United States v. Nelson (9th Cir. 1983) 718 F.2d 315

Supreme Court Justice [See Removal.]

Suspension

pending appeal from criminal conviction

In re Tindall (1963) 60 Cal.2d 469 [34 Cal.Rptr. 849, 386 P.2d 473]

pending criminal prosecution

In re Tindall (1963) 60 Cal.2d 469 [34 Cal.Rptr. 849, 386 P.2d 473]

Trial conduct

judge who testifies as a witness in a case in which he presides must give advance notice and obtain consent of parties

People v. Sweeney (1984) 150 Cal.App.3d 553 [198 Cal.Rptr. 182]

may not exclude a party to an action

People ex rel Curtis v. Peters (1983) 143 Cal.App.3d 597 [192 Cal.Rptr. 70]

Use of judge's name

for promotion of corporation

LA 53 (1927)

Willful misconduct in office [See Judge, Censure, causes for. Judge, removal, causes for.]

Witness

judge who testifies as a witness in a case in which he presides must give advance notice and obtain consent of parties

People v. Sweeney (1984) 150 Cal.App.3d 553

no absolute ban

People v. Fatone (1985) 165 Cal.App.3d 1164, 1183-1184 [211 Cal.Rptr. 288]

Writ of habeas corpus

judge granted without adequate information to help a friend

In the Matter of Jenkins (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 157

JUDICIAL SALE

Rule 5-103, Rules of Professional Conduct (operative until May 26, 1989)

Rule 4-300, Rules of Professional Conduct (operative as of May 27, 1989)

JURISDICTION, ADVISE CLIENT TO LEAVE

Rules 7-101 and 7-107, Rules of Professional Conduct (operative until May 26, 1989)

Rules 3-210 and 5-310, Rules of Professional Conduct (operative as of May 27, 1989)

JURORS, COMMUNICATION WITH OR INVESTIGATION OF

Rule 7-106, Rules of Professional Conduct (operative until May 26, 1989)

Rule 5-320, Rules of Professional Conduct (operative as of May 27, 1989)

In re Possino (1984) 37 Cal.3d 163 [207 Cal.Rptr. 543, 689 P.2d 115]

Noland v. State Bar (1965) 63 Cal.2d 298, [46 Cal.Rptr. 305, 405 P.2d 129]

Lind v. Medevac, Inc. (1990) 219 Cal.App.3d 516 [268 Cal.Rptr. 359]

CAL 1988-100

after trial

CAL 1987-95, CAL 1976-39

court-imposed, post-trial restrictions pursuant to trial court's inherent authority

Townsel v. Superior Court (1999) 20 Cal.4th 1084 [86 Cal.Rptr.2d 602]

jurors have absolute right to refuse to discuss deliberations or verdict with defense counsel

Jones v. Superior Court (1994) 26 Cal.App.4th 92 [31 Cal.Rptr.2d 264]

LABOR UNION

Emblem of on law firm letterhead

CAL 1971-24

Lawyer as member of

LAW CORPORATIONS

LA 337 (1973)
government employee

LA 337 (1973)
Lay employee shows membership in after signature
CAL 1971-24

LAW CORPORATIONS [See Professional corporations.]

Business and Professions Code sections 6125, 6126, 6127, 6160, et seq.

Inapplicable to duly certified professional corporation
Business and Professions Code section 6127.5
Business and Professions Code sections 6160-6172
application for

Business and Professions Code section 6161
defined

Business and Professions Code section 6160
director

-must be licensed person
Business and Professions Code section 6165

-shareholder
--income while disqualified person
Business and Professions Code section 6165
--must be licensed person
Business and Professions Code section 6165

Investigation
by State Bar
Business and Professions Code section 6168

Name of
Business and Professions Code section 6164

Report to State Bar
amendments to articles of incorporation
Business and Professions Code section 6162
annual report
Business and Professions Code section 6163
changes in directors, officers, employees performing
professional services/share ownership
Business and Professions Code section 6162

Rules, The State Bar of California Law Corporation [A copy of the full text of these rules may be obtained by contacting the Law Corporation Department of the Office of Certification at the State Bar's 180 Howard location in San Francisco.]

authority to promulgate
Business and Professions Code section 6171

Shareholder who leaves firm has no ownership or lien interest upon fees owed to firm by client

City of Morgan Hill v. Brown (1999) 71 Cal.App.4th 1114 [84 Cal.Rptr.2d 361]

Crouse v. Brobeck, Phleger & Harrison (1998) 67 Cal.App.4th 1509 [80 Cal.Rptr.2d 94]

State Bar of California
action of reviewable by Supreme Court
Business and Professions Code section 6170
disciplinary power and authority
-nothing in this article affects or impairs
Business and Professions Code section 6172

investigation
Business and Professions Code section 6168

notice to show cause
Business and Professions Code section 6169

-hearing on
Business and Professions Code section 6169(b)(c)
-hearing prior to suspension not required
Business and Professions Code Section 6169(d)

Supreme Court of California
disciplinary power and authority
-nothing in this article affects or impairs
Business and Professions Code section 6172
review of action by State Bar
Business and Professions Code section 6170

LAW CORPORATIONS RULES OF THE STATE BAR OF CALIFORNIA

Text is located in:
Deerings Annotated California Codes, Rules of Court, State Bar Rules (p. 417), and in
West's Annotated California Codes, Court Rules, vol. 23, pt 3, p. 738

Text available through State Bar's home page:
<http://www.calbar.ca.gov>

Text may be obtained from:
Law Corporations Department
State Bar of California
180 Howard Street
San Francisco, California 94105
Telephone: (415) 538-2140

LAW FIRM [See Corporation, professional. Partnership, advertising. Practice of law].

LAW OFFICE [See Advertising, law office. Practice of law.]

Announcement of formation of practice
mention that lawyer is legislator
LA 111 (1937)

Branch office
LA(I) 1973-2
Business operated from
accounting
LA 351 (1976), LA 225 (1955)

book publishing
LA 446 (1987)

notary public
LA 214 (1953)

real estate
LA 340 (1973), LA(I) 1970-2

sale of partnership interests
LA 199 (1952)

school that teaches how to obtain government loans
LA(I) 1976-5

stenography
LA 214 (1953)

By partnership
LA 325 (1972)

Dummy
LA 198 (1952)

Relocation of
announcement of
LA 104 (1936)

Share with
accountant
LA(I) 1968-1

bail company
SD 1974-23

business
LA 199 (1952)

entrance with
-bail business
SD 1974-23

investigator
SD 1974-23

foreign attorney
LA 99 (1936)

insurance business
LA 215 (1953)

investigator
LA(I) 1963-8

SD 1974-23

land developer
LA(I) 1968-1

LAW STUDENT

real estate business

LA (I) 1970-2

reception room

-investigator

SD 1974-23

suspended lawyer

LA (I) 1937-1

LAW STUDENT [See Admission to the Bar. Lay employee. Lay person. Practical training of law students.]

Presentation by to state agency

SD 1973-9

LAWYER [See Admission to the bar.]

Business and Professions Code section 6060, et. seq.

Circulation of list of lawyers who do not extend normal courtesies

LA 364 (1976)

Definition

Evidence Code section 950

Rule 1-100(B)(3), Rules of Professional Conduct

Duties

Business and Professions Code section 6068

MCLE (Minimum Continuing Legal Education)

Warden v. State Bar (1999) 21 Cal.4th 628

Greenberg v. State Bar of California (2000) 78 Cal.App.4th 39 [92 Cal.Rptr.2d 493]

Mandatory bar membership

Morrow, et al. v. State Bar (9th Cir. 1999) 188 F.3d 1174

Misconduct of reported

SF 1977-1

LAWYER REFERRAL SERVICE [See Group legal services. Referral of legal business.]

Rule 2-102, Rules of Professional Conduct (operative until May 26, 1989)

Rule 1-600, Rules of Professional Conduct (operative as of May 27, 1989)

Emmons, et. al. v. State Bar (1970) 6 Cal.App.3d 565 [86 Cal.Rptr. 367]

Duty to advise referred persons that counsel will divide fee with service

SD 1973-12

Financing of

LA(I) 1965-7, SD 1973-12

General guidelines

SD 1977-5

Immunity from liability for referrals

if authorized by the State Bar of California and in conformance with minimum standards for a lawyer referral service in California

Civil Code section 43.95

Income of organization

from operation of lawyer referral service in conformance with the minimum standards of a lawyer referral service
-excluded

Revenue and Taxation Code section 23734d

Minimum standards for a lawyer referral service [The full text is reprinted at at part IA., appendix A of this Compendium.]

Civil Code section 43.95

Revenue and Taxation Code section 23734d

Rule 2-102(B), Rules of Professional Conduct (operative until May 26, 1989)

Rule 1-600, Rules of Professional Conduct (operative as of May 27, 1989)

Participation in

LA(I) 1960-3

referrals to directors

SD 1977-5

LAWYER'S PERSONAL ASSISTANCE PROGRAM OF THE STATE BAR OF CALIFORNIA

For confidential assistance with chemical dependency, substance abuse, and emotional distress, contact:

Center for Human Resources/West

(415) 502-7290

For information about program, contact:

Office of Professional Competence, Planning & Development

(415) 538-2107

LAY EMPLOYEE [See Contingent fee. Division of fees. Fees. Foreign attorney. Lay person. Witness.]

Accountant

SD 1974-17

Card, professional [See Advertising.]

Certified law student

People v. Perez (1979) 24 Cal.3d 133, 138 [155 Cal.Rptr. 176]

SD 1974-5

Client trust account

Gassman v. State Bar (1976) 18 Cal.3d 125, 128-130 [132 Cal.Rptr. 675]

Compensation of

division of fees

LA 222 (1954), LA 190 (1952)

percentage of income

LA(I) 1972-25

Confidential information disclosed

CAL 1979-50

Employed by several law firms

CAL 1980-50

Executor for opposing party's estate

LA 341 (1973)

Expert

handwriting

LA 46 (1927)

Fee for services

LA(I) 1973-7, LA(I) 1968-4

Holding out as attorney

Business and Professions Code section 6126

Investigator

LA 172 (1950), LA(I) 1956-2

Particular acts by

administrative agency practice

LA 143 (1943)

collections

SD 1978-4

correspondence

CAL 1971-24, LA(I) 1971-6, SD 1978-4

settlement

LA(I) 1972-19

Responsibility for acts of

Crane v. State Bar (1981) 30 Cal.3d 117, 122 [177 Cal.Rptr. 670]

Black v. State Bar (1972) 7 Cal.3d 676, 692 [103 Cal. Rptr. 288, 499 P.2d 968]

Moore v. State Bar (1964) 62 Cal.2d 74, 81 [41 Cal.Rptr. 161, 396 P.2d 577]

In the Matter of Phillips (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 315

LA(I) 1976-1

Shows labor union membership after signature

CAL 1971-24

Signing on client trust account

CAL 1988-97

Uses card showing relationship to lawyer

LA 346 (1975), LA 172 (1950), LA(I) 1956-2

SD 1974-5

LAY INTERMEDIARIES

LAY INTERMEDIARIES [See Division of fees. Referral of legal business. Solicitation of business.]

Association

act for members of

LA(l) 1947-8

trade, advise members of

LA 155 (1945)

Communicate with opposing party through

Shalant v. State Bar (1983) 33 Cal.3d 485, 489 [189 Cal.Rptr. 374]

LA 315 (1970)

Consulting firm, advise customers of

LA 194 (1952)

Corporation

represent customers of

LA 262 (1959)

Family counseling corporation, represent clients of

LA 270 (1962)

Interpreters in court

People v. Shaw (1984) 35 Cal.3d 535, 542-543 [198 Cal.Rptr. 72]

Labor union, represent members of

LA 151 (1944)

LAY PERSON [See Contingent fee. Law student. Lay employee.

Patent attorney. Practice of law. Unauthorized practice of law.]

IRS agents not entitled to absolute immunity

sanction of person when taking action provoking lawsuit

Bothke v. Fluor Engineers and Constructors, Inc. (9th Cir. 1983) 713 F.2d 1405

Listed on law office door

LA(l) 1956-6

Partnership with

Rule 3-103, Rules of Professional Conduct

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LA(l) 1966-18

accountant

LA(l) 1959-5

SD 1974-17

LECTURE [See Advertising. Publication.]

CAL 1972-29, CAL 1967-12

LEGAL AID [See Indigent persons.]

Ferreira v. Swoap (1976) 62 Cal.App.3d 875 [133 Cal.Rptr. 449]

Agency

advertising, referrals, referral panel, definition of fee generating case

SD 1976-7

advertising or solicitation by

SD 1974-9

control over activities of

-by lawyer employees of

SD 1974-9, SF 1976-1

disclosure of data about clients of

LA 378 (1978), LA 358 (1976)

disposition of unclaimed clients' funds by

CAL 1975-36

fund raising by

SD 1974-9

propriety of being employed by

LA(l) 1965-1

Divorce

advise client how to obtain in pro per divorce

SD 1972-6

Funding

Congressional restriction on funding of organizations that represent indigent clients in loss of welfare benefits suits violates First Amendment

Legal Services Corp. v. Velazquez (2001) 531 U.S. 533 [121 S.Ct. 1043]

lack of funding makes withdrawal and effective representation impossible or unreasonably difficult

CAL 1981-64

Lay person, participation in

SD 1983-4

Legal aid lawyer

withdrawal by

SF 1973-5

Legal services corporation including non-attorney shareholders

LA 444 (1987)

Program organized by non-profit corporation

LA(l) 1972-24

Public defender

offers to represent indigent before arraignment

LA(l) 1954-2

Representation of client who possess assets

SD 1983-6

LEGAL DIRECTORY [See Advertising, directory of lawyers.

Solicitation of business, inclusion in list of approved practitioners.]

Certified law lists

SF 1975-3

Judicial office, former noted in

SF 1973-11

Listing

SD 1968-1

of interstate partnership

SF 1974-5

Out-of-state attorney listed in

LA 249 (1958)

LEGAL SERVICES [See Legal aid.]

United Mine Workers v. Illinois State Bar Assn. (1967) 389 U.S. 217 [88 S.Ct. 353]

Brotherhood of Railroad Trainmen v. Virginia (1964) 377 U.S. 1 [84 S.Ct. 1113]

NAACP v. Button (1963) 371 U.S. 415 [83 S.Ct. 328]

Brotsky v. State Bar (1962) 57 Cal.2d 287 [19 Cal.Rptr. 153]

Hildebrand v. State Bar (1950) 36 Cal.2d 504 [225 P.2d 508]

Lack of funding makes effective representation unreasonably difficult or impossible, withdrawal

CAL 1981-64

Legal services corporation including non-attorney shareholders

LA 444 (1987)

Partnership with non-lawyer living trust marketers

CAL 1997-148

Partnership with non-lawyer shareholder

LA 444 (1987)

Referral fees

Emmons, Williams, Mires & Leech v. State Bar (1970) 6 Cal.App.3d 565 [86 Cal.Rptr. 367]

LEGAL SPECIALIZATION [See Advertising. Practice of law.

Specialization.]

Advertising

notice to apprise profession of specialized service

LA 110 (1937)

Appellate briefs

LA 258 (1959)

Bankruptcy

LA 258 (1959)

California Board of Legal Specialization

Rules Governing the State Bar of California Program for Certifying Legal Specialists

Text of rules and regulations is located in:

Deerings Annotated California Codes, Rules of Court, State Bar Rules (p. 433), and in West's Annotated California Codes, Court Rules, vol. 23, pt 3, p. 751

Text available through State Bar's home page:

<http://www.calbar.ca.gov>

Text may be obtained from:

Legal Specialization Department

State Bar of California

180 Howard Street

San Francisco, California 94105

Telephone: (415) 538-2100

Certified specialist

authority over

LA(l) 1974-4

LETTERHEAD

Consultative practice
LA 258 (1959)
Corporate litigation
LA(l) 1948-1
Division of community property
LA(l) 1948-1
Divorce
LA 179 (1951)
Drafting
LA 209 (1953)
Holding out as specialist [see Advertising]
Rule 1-400(D)(6), Rules of Professional Conduct (operative as of June 1, 1997)
Rule 1-400, std. 11, Rules of Professional Conduct (operative as of May 27, 1989)
Peel v. Attorney Regulatory & Disciplinary Commission of Illinois (1990) 496 U.S. 91 [110 S.Ct. 2281]
Wright v. Williams (1975) 47 Cal.App.3d 802 [121 Cal.Rptr. 194]
International law
LA 230 (1955)
Lawyer referral service
Business and Professions Code section 6155
Rule 2-102, Rules of Professional Conduct
State Bar Minimum Standards for a Lawyer Referral Service, section 5.2
Legal accounting
LA(l) 1948-1
Legal research
LA 209 (1953)
Medical jurisprudence
LA(l) 1961-1
Part-time services
LA 258 (1959)
Patents
LA 232 (1956), LA 44 (1927)
Private international law
LA(l) 1970-4
Receiverships
LA(l) 1948-1
Reorganizations
LA(l) 1948-1
Selective Service Act
LA 180 (1951)
Taxation
LA 168 (1948)
Workers' compensation
LA(l) 1959-2

LETTERHEAD

Accountant's lawyer shown on
LA 164 (1947)
Dead lawyer's name on
CAL 1986-90, LA(l) 1962-5
Former judge
judicial office shown on
SF 1973-11
Holding out as specialist [see Advertising]
Rule 1-400(D)(6), Rules of Professional Conduct (operative as of June 1, 1997)
Rule 1-400, std. 11, Rules of Professional Conduct (operative as of May 27, 1989)
Peel v. Attorney Regulatory and Disciplinary Commission of Illinois (1990) 496 U.S. 91 [110 S.Ct. 2281]
Wright v. Williams (1975) 47 Cal.App.3d 802 [121 Cal.Rptr. 194]
Inactive lawyer on
Business and Professions Code section 6132
LA 310 (1969)
Lay person on
LA(l) 1964-4
Lay person's law degree noted on
LA 39 (1927)
Name of lawyer who is not associated with office on
SD 1969-4

Of client, counsel shown on
SD 1972-16, LA 289 (1965), LA 185 (1951), LA 173 (1950), LA 164 (1947), LA 43 (1927), LA(l) 1965-17, LA(l) 1965-15
"Of counsel" on
Rule 1-400, std. 8, Rules of Professional Conduct
CAL 1993-129, CAL 1986-88
LA 421 (1983), LA 306 (1968), LA(l) 1967-8
Of office sharers [See Law office.]
CAL 1971-27
Of organization, lawyer-officer of identified on
LA 286 (1965), LA 256 (1959)
Out-of-state attorney or firm on
LA 332 (1973), LA 202 (1952), LA 189 (1952), LA(l) 1967-8, LA(l) 1965-9, LA(l) 1959-3
Out-of-state attorney's
LA(l) 1960-1
Partnership
foreign lawyer or firm on
LA 332 (1973), LA 249 (1958), LA 230 (1955), LA(l) 1965-9, SF 1974-1
former member shown on
-inactive partner
LA 310 (1969)
interstate
LA 230 (1955)
non-existent partnerships
LA(l) 1959-3
Professional corporation
SD 1978-4
Public office of former judge shown on
SF 1973-11
Public official's reference to private practice
LA 260 (1959)
Qualifications on
academic degrees
SD 1974-10
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LA 224 (1955)
membership
-bar association
LA 153 (1945)
-in other professions
LA 349 (1975), LA(l) 1961-1
-specialties
LA 230 (1955), LA 168 (1948), LA(l) 1961-1
Union emblem on
CAL 1971-24
Use of
educational activity
SD 1974-21
political activity
LA 250 (1958)
Used by
client for collections
CAL 1982-68, LA(l) 1968-3
collection supervisor
SD 1978-4
LIEN [See Attorney's lien. Fees, collection of.]
Attorney's lien not payable in circumvention of the Bankruptcy Code
In re Monument Auto Detail, Inc. (9th Circ. BAP 1998) 226 B.R. 219 [33 Bankr.Ct.Dec. 419]
Client settlement
failure of subsequent counsel to honor
-liability for interference with prospective economic advantage
Levin v. Gulf Insurance Group (1998) 69 Cal.App.4th 1282 [82 Cal.Rptr.2d 228]
Pearlmutter v. Alexander (1979) 97 Cal.App.3d Supp. 16 [158 Cal.Rptr. 762]
Common fund doctrine does not apply to contractual medical lienholders in personal injury matters
City and County of San Francisco v. Sweet (1995) 12 Cal.4th 105, 110, 115-117

LIMITING LIABILITY TO CLIENT

Farmers Insurance Exchange et al. v. Smith (1999) 71 Cal.App.4th 660 [83 Cal.Rptr.2d 911]
Lovett v. Carrasco (1998) 63 Cal.App.4th 48 [73 Cal.Rptr.2d 496]

County's right to recover lien for medical expenses from injured debtor's settlement

Tapia v. Pohlman (1998) 68 Cal.App.4th 1126 [81 Cal.Rptr.2d 1]

Hospital's right to assert a lien on patient's lawsuit recovery once Medi-Cal payments accepted

Brooks v. St. Mary Hospital (1997) 57 Cal.App.4th 241 [66 Cal.Rptr.2d 820]

Insurance company pays fee to insured's attorney to protect insurer's lien on insured's settlement

LA 352 (1976)

Notice

Great-West Life & Annuity Ins. Co. v. Knudson (2002) 534 U.S. 204 [122 S.Ct. 708]

Carroll v. Interstate Brands Corp. (2002) 99 Cal.App.4th 1168 [121 Cal.Rptr.2d 532]

Farmers Insurance Exchange, et al. v. Smith (1999) 71 Cal.App.4th 660 [83 Cal.Rptr.2d 911]

Farmers Insurance Exchange v. Zerin (1997) 53 Cal.App.4th 445 [61 Cal.Rptr.2d 707]

Kaiser Foundation Health Plan Inc. v. Aguiluz (1996) 47 Cal.App.4th 302 [54 Cal.Rptr.2d 665]

Hansen v. Haywood (1986) 186 Cal.App.3d 350 [230 Cal.Rptr. 580]

In the Matter of Moriarty (Review Dept. 1999) 4 Cal. State Bar Ct. Rptr. 9

In the Matter of Feldsott (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 754

Physician

CAL 1988-101, CAL 1991-28(I)

LA 478 (1994), LA 368 (1977), LA 357 (1976)

Priority of

Pangborn Plumbing Corp. v. Carruthers & Skiffington (2002) 97 Cal.App.4th 1039 [119 Cal.Rptr.2d 416]

Atascadero Factory Outlets, Inc. v. Augustini & Wheeler LLP (2000) 83 Cal.App.4th 717 [99 Cal.Rptr.2d 911]

Epstein v. Abrams (1997) 57 Cal.App.4th 1159 [67 Cal.Rptr.2d 555]

Cappa v. F & K Rock & Sand, Inc. (1988) 203 Cal.App.3d 172 [249 Cal.Rptr. 718]

exceptions to priority of attorney's lien

Pangborn Plumbing Corp. v. Carruthers & Skiffington (2002) 97 Cal.App.4th 1039 [119 Cal.Rptr.2d 416]

Third party

Great-West Life & Annuity Ins. Co. v. Knudson (2002) 534 U.S. 204 [122 S.Ct. 708]

duty of attorney

Farmers Insurance Exchange et al. v. Smith (1999) 71 Cal.App.4th 660 [83 Cal.Rptr.2d 911]

Farmers Insurance Exchange v. Zerin (1997) 53 Cal.App.4th 445 [61 Cal.Rptr.2d 707]

Kaiser Foundation Health Plan, Inc. v. Aguiluz (1996) 47 Cal.App.4th 302 [54 Cal.Rptr.2d 665]

Goldberg v. Superior Court (1994) 23 Cal.App.4th 1378 [28 Cal.Rptr.2d 613]

U.S. v. Limbs (9th Cir. 1975) 524 F.2d 799

Cooper v. State Bar (1987) 43 Cal.3d 1016, 1020 [239 Cal.Rptr. 709, 741 P.2d 206]

Simmons v. State Bar (1969) 70 Cal.2d 361, 365 [74 Cal.Rptr. 915, 450 P.2d 291]

Johnstone v. State Bar (1966) 64 Cal.2d 153, 155 [49 Cal.Rptr. 97, 410 P.2d 617]

In the Matter of Moriarty (Review Dept. 1999) 4 Cal. State Bar Ct. Rptr. 9

In the Matter of Riley (Review Dept. 1994) 3 Cal. State Bar Ct. Rptr. 91

In the Matter of Respondent H (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 234

In the Matter of Bouyer (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 404

In re Marriage of Wagoner (1986) 176 Cal.App.3d 936 [222 Cal.Rptr. 479]

Brian v. Christensen (1973) 35 Cal.App.3d 377 [110 Cal.Rptr. 688]

Miller v. Rau (1963) 216 Cal.App.2d 68 [30 Cal.Rptr. 612]

exceptions to priority of attorney's lien

Pangborn Plumbing Corp. v. Carruthers & Skiffington (2002) 97 Cal.App.4th 1039 [119 Cal.Rptr.2d 416]

LIMITING LIABILITY TO CLIENT

Business and Professions Code section 6090.5

Rule 6-102, Rules of Professional Conduct (operative until May 26, 1989)

Rule 3-400, Rules of Professional Conduct (operative as of May 27, 1989)

Donnelly v. Ayer (1986) 183 Cal.App.3d 978 [228 Cal.Rptr. 764]

In the Matter of Fonte (Review Dept. 1994) 2 Cal. State Bar Ct. Rptr. 752

In the Matter of Lane (Review Dept. 1994) 2 Cal. State Bar Ct. Rptr. 735

CAL 1992-127, CAL 1989-116

LA 502 (1999), LA 489 (1997)

LITIGATION

Intervention by non-party holder of privilege is not necessary or required to assert Evidence Code section 954 privilege

Mylan Laboratories, Inc. v. Soon-Shiong (1999) 76 Cal.App.4th 76 [90 Cal.Rptr.2d 111]

Litigation privilege

Civil Code section 47(b)

Kimmel v. Goland (1990) 51 Cal.3d 202 [271 Cal.Rptr. 191]

Silberg v. Anderson (1990) 50 Cal.3d 205, 211-216

Home Insurance Co. v. Zurich Insurance Co. (2002) 96 Cal.App.4th 17 [116 Cal.Rptr.2d 583]

Aronson v. Kinsella (1997) 58 Cal.App.4th 254 [68 Cal.Rptr.2d 305]

Shartzer v. Israels (1997) 55 Cal.App.4th 1290

Edwards v. Centex Real Estate Corp. (1997) 53 Cal.App.4th 15 [61 Cal.Rptr.2d 518]

Limandri v. Judkins (1997) 52 Cal.App.4th 326 [60 Cal.Rptr.2d 539]

Lafer v. Levinson (1995) 34 Cal.App.4th 117 [40 Cal.Rptr.2d 233]

demand letter

Knoell v. Petrovich (1999) 76 Cal.App.4th 164 [90 Cal.Rptr.2d 162]

dismissal of defamation action against law firm justified

Dove Audio Inc. v. Rosenfeld, Meyer and Susman (1996) 47 Cal.App.4th 777 [54 Cal.Rptr.2d 830]

Public official's authority with respect to initiating

LA(l) 1974-3

Specially appearing attorney undertakes a limited association with the litigant's attorney of record, forms an attorney-client relationship with the litigant, and owes the litigant a duty of care

Streit v. Covington & Crowe (2000) 82 Cal.App.4th 441 [82 Cal.Rptr.2d 193]

Vicarious disqualification of a firm does not automatically follow the personal disqualification of the tainted attorney, a former settlement judge

County of Los Angeles v. United States District Court (Forsyth) (9th Cir. 2000) 223 F.3d 990

LOAN [See Conflict of Interest, Adverse Interest.]

Rule 4-210, Rule of Professional Conduct (operative as of May 27, 1989)

Security for

assignment in client's interest in estate

LA 228 (1955)

MAIL [See Advertising, Solicitation.]

MALICIOUS PROSECUTION [See Abuse of process.]

Against attorney

Lucero v. Stewart (9th Cir. 1989) 892 F.2d 52

Morrison v. Rudolph (2002) 103 Cal.App.4th 506 [126 Cal.Rptr.2d 747]

*Swat-Fame, Inc. v. Goldstein (2002) 101 Cal.App.4th 613 [124 Cal.Rptr.2d 556]

MALPRACTICE

- Hall v. Harker (1999) 69 Cal.App.4th 836
Westamco Investment Co. v. Lee (1999) 69 Cal.App.4th 481 [81 Cal.Rptr.2d 634]
Williams v. Coombs (1986) 179 Cal.App.3d 626 [224 Cal.Rptr. 865]
Tool Research & Engineering Corp. v. Henigson (1975) 46 Cal.App.3d 675 [120 Cal.Rptr. 291]
sanction
-against defendant attorney improper
--dissolve protective order limiting use of financial information to lawsuit
Richards v. Superior Court (1978) 86 Cal.App.3d 265 [150 Cal.Rptr. 77]
unsuccessful attempt to disqualify attorney from representing client not basis for malicious prosecution or abuse of process suit
Silver v. Gold (1989) 211 Cal.App.3d 17 [259 Cal.Rptr. 185]
By attorney
against former client
-dismissal of cross-complaint or counter claim by client in action to recover attorneys' fees
Minasian v. Sapse (1978) 80 Cal.App.3d 823 [145 Cal.Rptr. 829]
filing complaint for punitive damages
-where prohibited by statute
Umansky v. Urquhart (1978) 84 Cal.App.3d 368 [148 Cal.Rptr. 547]
Younger v. Solomon (1974) 38 Cal.App.3d 289 [113 Cal.Rptr. 113]
unsuccessful attempt to disqualify attorney from representing client not basis for malicious prosecution or abuse of process suit
Silver v. Gold (1989) 211 Cal.App.3d 17 [259 Cal.Rptr. 185]
By law firm
law firm liable for malicious prosecution based on acts of principal
Gerard v. Ross (1988) 204 Cal.App.3d 968 [251 Cal.Rptr. 604]
Continuance of action by firm
grounds for partner's liability
Lujan v. Gordon (1977) 70 Cal.App.3d 260 [138 Cal.Rptr. 654]
Distinguished from abuse of process
Oren Royal Oaks Venture v. Greenberg, Bernhard, Weiss & Karma, Inc. (1986) 42 Cal.3d 1157 [232 Cal. Rptr. 567]
Elements of
Sheldon Appel Co. v. Albert & Oliker (1989) 47 Cal.3d 863 [254 Cal.Rptr. 336]
Morrison v. Rudolph (2002) 103 Cal.App.4th 506 [126 Cal.Rptr.2d 747]
*Swat-Fame, Inc. v. Goldstein (2002) 101 Cal.App.4th 613 [124 Cal.Rptr.2d 556]
Westamco Investment Co. v. Lee (1999) 69 Cal.App.4th 481 [81 Cal.Rptr.2d 634]
Bixler v. Goudling (1996) 45 Cal.App.4th 1179 [53 Cal.Rptr.2d 246]
Grindle v. Lorbeer (1987) 196 Cal.App.3d 1461 [242 Cal.Rptr. 562]
Pond v. Insurance Co. of North America (1984) 151 Cal.App.3d 280, 288-289 [198 Cal.Rptr. 517]
inferring malice from lack of probable cause
Grindle v. Lorbeer (1987) 196 Cal.App.3d 1461
Inadequate investigation of medical malpractice claim by attorney
dismissal of medical malpractice claim for failure to prosecute gave rise to
Weaver v. Superior Court (1979) 95 Cal.App.3d 166 [156 Cal.Rptr. 745]
mere reliance on client's description
Williams v. Coombs (1986) 179 Cal.App.3d 626 [224 Cal.Rptr. 865]
In-depth investigation by attorney negates malicious prosecution for defamation action
Walsh v. Bronson (1988) 200 Cal.App.3d 259 [245 Cal.Rptr. 888]
Judgment reversed
Hall v. Harker (1999) 69 Cal.App.4th 836
Probable cause element
attorney evaluating whether to file a case may generally rely on information provided by the attorney's client
Morrison v. Rudolph (2002) 103 Cal.App.4th 506 [126 Cal.Rptr.2d 747]
client provided information
*Swat-Fame, Inc. v. Goldstein (2002) 101 Cal.App.4th 613 [124 Cal.Rptr.2d 556]
each claim advanced must be supported by
Mabie v. Hyatt (1998) 61 Cal.App.4th 581 [71 Cal.Rptr.2d 657]
pleading on "on information and belief" not a shield from liability
Mabie v. Hyatt (1998) 61 Cal.App.4th 581 [71 Cal.Rptr.2d 657]
test is whether reasonable attorney would have thought the claim objectively tenable
Morrison v. Rudolph (2002) 103 Cal.App.4th 506 [126 Cal.Rptr.2d 747]
*Swat-Fame, Inc. v. Goldstein (2002) 101 Cal.App.4th 613 [124 Cal.Rptr.2d 556]
Puryear v. Golden Bear Insurance Co. (1998) 66 Cal.App.4th 1188 [78 Cal.Rptr.2d 507]
Requires favorable termination reflecting the merits of the underlying action
Drasin v. Jacoby & Meyers (1984) 150 Cal.App.3d 481, 484 [197 Cal.Rptr. 768]
dismissal of cross-action as sanction for failure to comply with discovery orders does not establish favorable termination
Pattiz v. Minye (1998) 61 Cal.App.4th 822 [71 Cal.Rptr.2d 802]
may occur at appellate level
Ray, as Receiver v. First Federal Bank of California (1998) 61 Cal.App.4th 315 [71 Cal.Rptr.2d 436]
Sanctions
Winick v. County of Sanitation District No. 2 of Los Angeles County (1986) 185 Cal.App.3d 1170, 1176 [230 Cal.Rptr. 289]
dismissal of cross-action as sanction for failure to comply with discovery orders does not establish favorable termination element
Pattiz v. Minye (1998) 61 Cal.App.4th 822 [71 Cal.Rptr.2d 802]
issues resolved on routine sanction motion not entitled to collateral estoppel preclusive effect in later action for malicious prosecution
Wright v. Ripley (1998) 65 Cal.App.4th 1189 [77 Cal.Rptr.2d 334]
MALPRACTICE [See Neglect. Professional liability.]
Acts constituting
Barner v. Leeds (2000) 24 Cal.4th 676 [102 Cal.Rptr.2d 97]
Wiley v. County of San Diego (1998) 19 Cal.4th 532 [79 Cal.Rptr.2d 672]
Lynch v. Warwick (2002) 95 Cal.App.4th 267 [115 Cal.Rptr.2d 391]
Lombardo v. Huysentruyt (2001) 91 Cal.App.4th 656 [110 Cal.Rptr.2d 691]
Barner v. Leeds (1998) 62 Cal.App.4th 1240 [73 Cal.Rptr.2d 296]
Crookall v. Davis, Punelli, Keathley & Willard (1998) 65 Cal.App.4th 1048 [77 Cal.Rptr.2d 250]
Kurini v. Hanna and Morton (1997) 55 Cal.App.4th 853 [64 Cal.Rptr.2d 324]
*Barkhordian v. Cooley, Godward, Castro, Huddleson & Tatum (1997) 54 Cal.App.4th 155 [62 Cal.Rptr.2d 519]

- Tibor v. Superior Court (1997) 52 Cal.App.4th 1359 [61 Cal.Rptr.2d 326]
T & R Foods, Inc. v. Rose (1996) 47 Cal.App.4th Supp. 1 [56 Cal.Rptr.2d 41]
Tchorbadjian v. Western Home Insurance Co. (1995) 39 Cal.App.4th 1211 [46 Cal.Rptr.2d 370]
Thompson v. Halvonik (1995) 36 Cal.App.4th 657 [43 Cal.Rptr.2d 142]
Aloy v. Mash (1985) 38 Cal.3d 312 [212 Cal.Rptr. 162]
Schultz v. Harney (1994) 27 Cal.App.4th 1611 [33 Cal.Rptr.2d 1]
Thomas v. Lusk, Jr. (1994) 27 Cal.App.4th 1709 [34 Cal.Rptr.2d 265]
Granquist v. Sandberg (1990) 219 Cal.App.3d 181 [268 Cal.Rptr. 109]
Edwards v. Chain, Younger, et al. (1987) 191 Cal.App.3d 515 [236 Cal.Rptr. 465]
Enriquez v. Smyth (1985) 173 Cal.App.3d 691 [219 Cal.Rptr. 267]
Purdy v. Pacific Automobile Ins. Co. (1984) 157 Cal.App.3d 59, 74-76 [203 Cal.Rptr. 524]
Davis v. Damrell (1981) 119 Cal.App.3d 883 [174 Cal.Rptr. 257]
to third parties
Lombardo v. Huysentruyt (2001) 91 Cal.App.4th 656 [110 Cal.Rptr.2d 691]
Schick v. Bach, et al (1987) 193 Cal.App.3d 1321 [238 Cal.Rptr. 902]
Acts of privately retained counsel and publicly appointed counsel should be measured by the same standard of care, except as otherwise provided by statute
Barner v. Leeds (2000) 24 Cal.4th 676 [102 Cal.Rptr.2d 97]
Agreement to limit professional liability
LA 489 (1997)
Arbitration provisions of retainer agreement are enforceable and applicable to legal malpractice action
Powers v. Dickson, Carlson & Campillo (1997) 54 Cal.App.4th 1102 [63 Cal.Rptr.2d 261]
CAL 1989-116, LA 489 (1997)
Assignability
Curtis v. Kellogg & Andelson (1999) 73 Cal.App.4th 492 [86 Cal.Rptr.2d 536]
Baum v. Duckor, Spradling & Metzger (1999) 72 Cal.App.4th 54 [84 Cal.Rptr.2d 703]
Kracht v. Perrin, Gartland & Doyle (1990) 219 Cal.App.3d 1019 [268 Cal.Rptr. 637]
bankruptcy estate representative pursuing claim for the estate is not an assignee
Office of Statewide Health Planning and Development v. Musick, Peeler & Garrett (1999) 76 Cal.App.4th 830 [90 Cal.Rptr.2d 705]
shareholder's derivative action does not transfer the cause of action from the corporation to the shareholders
McDermott, Will & Emory v. Superior Court (James) (2000) 83 Cal.App.4th 378 [99 Cal.Rptr.2d 622]
Attorney self-interest does not interfere with duty to client where attorney seeks indemnification from co-counsel in malpractice action
Musser v. Provencher (2002) 28 Cal.4th 274 [121 Cal.Rptr.2d 373]
Attorney sued by former client for legal malpractice may not cross-complain against plaintiff's present attorney for indemnity or contribution
Austin v. Superior Court (1999) 72 Cal.App.4th 1126 [85 Cal.Rptr.2d 644]
Kroll & Tract v. Paris & Paris (1999) 72 Cal.App.4th 1537 [86 Cal.Rptr.2d 78]
Attorney sued by former corporate client for malpractice is not entitled to receive costs of defense pursuant to Corporations Code section 317
Channel Lumber Co. Inc. v. Simon (2000) 78 Cal.App.4th 1222 [93 Cal.Rptr.2d 482]
Attorney's failure to raise inapplicable argument
Crookall v. Davis, Punelli, Keathley & Willard (1998) 65 Cal.App.4th 1048 [77 Cal.Rptr.2d 250]
Burden of proof
attorney charged with spoliation of evidence has burden of showing that his negligence did not result in loss of meritorious case
Galanek v. Wismar (1999) 68 Cal.App.4th 1417 [81 Cal.Rptr.2d 236]
inapplicability of "case within a case" methodology in transactional matter
California State Automobile Association v. Parichan (2000) 84 Cal.App.4th 702 [101 Cal.Rptr.2d 72]
plaintiff failed to prove that any judgment she might have obtained in her "case within a case" would have been collectible
Garretson v. Harold I. Miller (2002) 99 Cal.App.4th 563 [121 Cal.Rptr.2d 317]
By partner
associate's duty to disclose to client
LA 383 (1979)
"Case within a case" methodology did not apply transactional matter
California State Automobile Association v. Parichan (2000) 84 Cal.App.4th 702 [101 Cal.Rptr.2d 72]
Co-counsel may not sue another for breach of fiduciary duty on theory that latter's malpractice in handling their mutual client's case reduced or eliminated the fees the former expected to realize from the case
Beck v. Wecht (2002) 28 Cal.4th 289 [121 Cal.Rptr.2d 384]
Criminal defendant must prove actual innocence in action for
Coscia v. McKenna & Cuneo (2001) 25 Cal.4th 1194 [108 Cal.Rptr.2d 471]
Wiley v. County of San Diego (1998) 19 Cal.4th 532 [79 Cal.Rptr.2d 672]
Lynch v. Warwick (2002) 95 Cal.App.4th 267 [115 Cal.Rptr.2d 391]
Duty to advise client of prior attorney's malpractice
no duty found
LA 390 (1981)
Emotional distress damages may be recoverable as part of a legal malpractice claim
LA 489 (1997)
Emotional distress damages may not be recovered as a result of negligent legal malpractice
Camenisch v. Superior Court (1996) 44 Cal.App.4th 1689 [52 Cal.Rptr.2d 450]
Merenda v. Superior Court (1992) 3 Cal.App.4th 1
Filing action not sufficient to preserve client's right to trial de novo after award of fees in mandatory fee arbitration
Shiver, McGrane & Martin v. Littell (1990) 217 Cal.App.3d 1041 [266 Cal.Rptr. 298]
Firm liable for acts of principal
Gerard v. Ross (1988) 204 Cal.App.3d 968
Firm not liable to insured when insurer, under consent clause of policy, was entitled to settle without consulting insured
New Plumbing Contractors, Inc. v. Edwards, Sooy & Byron (2002) 99 Cal.App.4th 799 [121 Cal.Rptr.2d 472]
Insufficient remedy
Community Dental Services v. Tani (2002) 282 F.3d 1164
Insurance
firm's insurance doesn't cover attorney's alleged malpractice occurring outside conduct of firm's business
Taub v. First State Insurance Company (1995) 44 Cal.App.4th 811 [52 Cal.Rptr.2d 1]
insurance carrier cannot bring malpractice action against attorney it did not retain to defend insured
American Casualty Company v. O'Flaherty (1997) 57 Cal.App.4th 1070 [67 Cal.Rptr.2d 539]
insurance company has right to bring malpractice action against the counsel it hired to defend its insured
California State Automobile Association v. Parichan (2000) 84 Cal.App.4th 702 [101 Cal.Rptr.2d 72]
Unigard Ins. Group v. O'Flaherty & Belqum (1997) 38 Cal.App.4th 1229

MALPRACTICE

- insurer has standing to sue law firm representing both insurer and insured
Gulf Insurance Co. v. Berger, Kahn et al. (2000) 79 Cal.App.4th 114 [93 Cal.Rptr.2d 534]
- Jurisdiction of California federal court over Florida matter
Sher v. Johnson (9th Cir. 1990) 911 F.2d 1357
- Legal malpractice carrier does not cover attorney's alleged malpractice occurring outside of firm's business
Taub v. First State Insurance Company (1995) 44 Cal.App.4th 811 [52 Cal.Rptr.2d 1]
- Legal malpractice carrier has no duty to defend malicious prosecution action arising from conspiracy suit by attorney acting on own behalf
Johnson v. First State Insurance Co. (1994) 27 Cal.App.4th 1079 [33 Cal.Rptr.2d 163]
- Legal malpractice carrier's liability for multiple claims which are not characterized as arising from a "single act"
Bay Cities Paving & Grading, Inc. v. Lawyer's Mutual Insurance Company (1991) 233 Cal.App.3d 1184
- Legal malpractice defendant not entitled to discover terms of plaintiff's settlement re mitigating damages with insurer
Norton v. Superior Court (1994) 24 Cal.App.4th 1750 [30 Cal.Rptr.2d 217]
- Malpractice actions tolled while attorney continues to represent client
Village Nurseries, L.P. v. Greenbaum (2002) 101 Cal.App.4th 26 [123 Cal.Rptr.2d 555]
Lockley v. Law Office of Cantrell, Green, Pekich, Cruz & McCort (2001) 91 Cal.App.4th 875 [110 Cal.Rptr.2d 877]
Baright v. Willis (1984) 151 Cal.App.3d 303, 308 [198 Cal.Rptr. 510]
- Malpractice by itself does not prove violation of Rule 3-110(A) of Rules of Professional Conduct
In the Matter of Torres (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 138
- Medical certification
Code of Civil Procedure sections 365, 411.30
- Medical or health care provider
Business and Professions Code sections 6146, 6147
Code of Civil Procedure section 364
Paxton v. Chapman General Hospital (1986) 186 Cal.App.3d 110 [230 Cal.Rptr. 355]
communication with physician of opposing party
SD 1983-9
no duty to consult medical specialist unless such consultations recommended by other doctors
Bolton v. Trope (1999) 75 Cal.App.4th 1021 [89 Cal.Rptr.2d 637]
- represent
-against former physician client
LA(l) 1965-5
statute of limitations tolled when plaintiff gives notice required by CCP § 364 within the last 90 days of the one year statute
Russell v. Stanford University Hospital (1996) 44 Cal.App.4th 1798 [52 Cal.Rptr.2d 645]
Woods v. Young (1991) 53 Cal.3d 315 [807 P.2d 455]
- Multiple errors by attorney do not support multiple claims against attorney when only single injury results
Bay Cities Paving & Grading v. Lawyers Mutual Insurance Co. (1993) 5 Cal.4th 854 [21 Cal.Rptr.2d 691]
- No action against attorney who is resigned as attorney of record prior to commission of alleged malpractice
Stuart v. Superior Court (1992) 14 Cal.App.4th 124 [18 Cal.Rptr.2d 142]
- No duty to agent of client who participated with attorney in the negotiation of a contract on behalf of their client
Major Clients Agency v. Diemer (1998) 67 Cal.App.4th 1116 [79 Cal.Rptr.2d 613]
- No triable issue of fact as to second attorney's assumption of responsibility for pending lawsuit during retained counselor's illness
Daniels v. DeSimone (1993) 13 Cal.App.4th 600 [16 Cal.Rptr.2d 615]
- Omission
McCann v. Welden (1984) 153 Cal.App.3d 814 [200 Cal.Rptr. 703]
by one member of law firm imputed to others when more than one attorney works on case
Griffis v. Kresge (1984) 150 Cal.App.3d 491, 497 [197 Cal.Rptr. 771]
- Outside counsel
outside counsel retained by corporation to defend against litigation was not agent of corporation for purposes of statute indemnifying persons sued by reason of such agency for defense costs of malpractice action brought by the corporation
Channel Lumber Co. Inc. v. Simon (2000) 78 Cal.App.4th 1222 [93 Cal.Rptr.2d 482]
- Outside union counsel immune under Labor Management Relations Act
Breda v. Scott (1993) 1 F.3d 908
- Professional malpractice distinguished from negligence
Bellamy v. Superior Court (1996) 45 Cal.App.4th 565 [57 Cal.Rptr.2d 894]
- Public defender not immune from legal malpractice under statute granting discretionary immunity to public employees
Barnev v. Leeds (2000) 24 Cal.4th 676 [102 Cal.Rptr.2d 97]
- Public defenders not independent contractors for purpose of a government tort claim
Briggs v. Lawrence (1991) 230 Cal.App.3d 605
- Public policy concerns barred first law firm from asserting indemnity claim against Cumis counsel with which it had concurrently represented company
Kroll & Tract v. Paris & Paris (1999) 72 Cal.App.4th 1537 [86 Cal.Rptr.2d 78]
- Public policy concerns do not bar concurrent counsel from seeking indemnification from co-counsel in malpractice action
Musser v. Provencher (2002) 28 Cal.4th 274 [121 Cal.Rptr.2d 373]
- Punitive damages in underlying lawsuit
Piscitelli v. Friedenber (2001) 87 Cal.App.4th 953 [105 Cal.Rptr.2d 88]
- Punitive damages may not be available if plaintiff alleges only simple negligence
Jackson v. Johnson (1992) 5 Cal.App.4th 1350
- Right to jury trial
Piscitelli v. Friedenber (2001) 87 Cal.App.4th 953 [105 Cal.Rptr.2d 88]
- Scope of expert testimony
Piscitelli v. Friedenber (2001) 87 Cal.App.4th 953 [105 Cal.Rptr.2d 88]
- Settlement of claim
Donnelly v. Ayer (1986) 183 Cal.App.3d 978 [228 Cal.Rptr. 764]
breach of contract action available if settlement agreement cannot be enforced under CCP § 664.6
Harris v. Rudin, Richman & Appel (1999) 74 Cal.App.4th 299 [97 Cal.Rptr.2d 822]
- Sexual harassment of client
McDaniel v. Gile (1991) 230 Cal.App.3d 363 [281 Cal.Rptr. 242]
- Signature of plaintiff's attorney omitted on complaint may not warrant dismissal of action with prejudice
Vaccaro v. Kaiman (1998) 63 Cal.App.4th 761 [73 Cal.Rptr.2d 829]
- Spoilation of evidence
Galanek v. Wismar (1999) 68 Cal.App.4th 1417 [81 Cal.Rptr.2d 236]
- Special appearances
specially appearing attorney forms an attorney-client relationship with the litigant and owes a duty of care to the litigant
Streit v. Covington & Crowe (2000) 82 Cal.App.4th 441 [82 Cal.Rptr.2d 193]
- Standing to sue
trustee of "sham" corporation has standing to sue corporate attorneys for legal malpractice
Loyd v. Paine Webber, Inc. (9th Cir. 2000) 208 F.3d 755

MILITARY PERSONNEL

Statute of limitations

application of where attorney performs both legal and non-legal services

Quintilliani v. Mannerino (1998) 62 Cal.App.4th 54 [72 Cal.Rptr.2d 359]

barred legal malpractice claim brought more than one year after client retained other attorney to represent him in the same matter

Bennett v. McCall (1993) 19 Cal.App.4th 122

burden of proof

-for purposes of one-year-from-discovery limitation on commencing legal malpractice action, defendant bears burden of proving when plaintiff discovered or should have discovered alleged malpractice

Samuels v. Mix (2000) 22 Cal.4th 1 [91 Cal.Rptr.2d 273]

Village Nurseries, L.P. v. Greenbaum (2002) 101 Cal.App.4th 26 [123 Cal.Rptr.2d 555]

does not begin to run until client suffers actual harm

Coscia v. McKenna & Cuneo (2001) 25 Cal.4th 1194 [108 Cal.Rptr.2d 471]

Leasequip, Inc. v. Dapeer (2002) 103 Cal.App.4th 394 [126 Cal.Rptr.2d 782]

Village Nurseries, L.P. v. Greenbaum (2002) 101 Cal.App.4th 26 [123 Cal.Rptr.2d 555]

Caballero v. Gibson, Dunn & Crutcher (1997) 54 Cal.App.4th 1457 [63 Cal.Rptr.2d 594]

*Barkhordian v. Cooley, Godward, Castro, Huddleson & Tatum (1997) 54 Cal.App.4th 155 [62 Cal.Rptr.2d 519]

Jordache Enterprises v. Brobeck, Phleger & Harrison (1998) 18 Cal.4th 739 [76 Cal.Rptr. 749]

Gailing v. Rose, Klein & Marias (1996) 43 Cal.App.4th 1570 [51 Cal.Rptr.2d 381]

Fantazia v. County of Stanislaus (1996) 41 Cal.App.4th 1444 [49 Cal.Rptr.2d 177]

Adams v. Paul (1995) 11 Cal.4th 583 [46 Cal.Rptr.2d 594]

*Pompilio v. Kosmo, Cho & Brown (1995) 39 Cal.App.4th 409 [46 Cal.Rptr.2d 409]

Marshall v. Gibson, Dunn & Crutcher (1995) 37 Cal.App.4th 1397 [44 Cal.Rptr.2d 339]

Levin v. Graham & James (1995) 37 Cal.App.4th 798 [44 Cal.Rptr.2d 69]

Baltins v. James (1995) 36 Cal.App.4th 1193 [42 Cal.Rptr.2d 327]

Karno v. Biddle (1995) 36 Cal.App.4th 622 [42 Cal.Rptr.2d 318]

Radovich v. Locke-Paddon (1995) 35 Cal.App.4th 946 [41 Cal.Rptr.2d 573]

*McElroy v. Biddison (1995) 32 Cal.App.4th 1164 [38 Cal.Rptr.2d 804]

Itt Small Business Finance Corp. v. Niles (1994) 9 Cal.4th 245 [36 Cal.Rptr.2d 552]

Laird v. Blacker (1994) 2 Cal.4th 606

Itt Small Business Finance Corp. v. Niles (1993) 19 Cal.App.4th 752

Finlayson v. Sanbrook (1992) 10 Cal.App.4th 1436 [13 Cal.Rptr.2d 406]

Laird v. Blacker (1991) 229 Cal.App.3d 159 [279 Cal.Rptr. 700]

Johnson v. Haberman & Kassoy (1988) 201 Cal.App.3d 1468 [247 Cal.Rptr. 614]

Robinson v. McGinn (1987) 195 Cal.App.3d

doctrine of "equitable tolling" applies to legal malpractice limitation period

Afroozmehr v. Asherson (1988) 201 Cal.App.3d 704 [247 Cal.Rptr. 296]

Worthington v. Rusconi (1994) 29 Cal.App.4th 1488 [35 Cal.Rptr.2d 169]

legal negligence action

began to run when client was first forced to take legal action to rectify prior attorney's error

Baltins v. James (1995) 36 Cal.App.4th 1193 [42 Cal.Rptr.2d 896]

Karno v. Biddle (1995) 36 Cal.App.4th 622 [42 Cal.Rptr.2d 318]

Adams v. Paul (1994) 26 Cal.App.4th 861 [31 Cal.Rptr.2d 846]

tolling of statute

CCP 340.6

Coscia v. McKenna & Cuneo (2001) 25 Cal.4th 1194 [108 Cal.Rptr.2d 471]

Samuels v. Mix (2000) 22 Cal.4th 1 [91 Cal.Rptr.2d 273]

Jordache Enterprises v. Brobeck, Phleger & Harrison (1998) 18 Cal.4th 739 [76 Cal.Rptr. 749]

Leasequip, Inc. v. Dapeer (2002) 103 Cal.App.4th 394 [126 Cal.Rptr.2d 782]

Village Nurseries, L.P. v. Greenbaum (2002) 101 Cal.App.4th 26 [123 Cal.Rptr.2d 555]

Lockley v. Law Office of Cantrell, Green, Pekich, Cruz & McCort (2001) 91 Cal.App.4th 875 [110 Cal.Rptr.2d 877]

*Barkhordian v. Cooley, Godward, Castro, Huddleson & Tatum (1997) 54 Cal.App.4th 155 [62 Cal.Rptr.2d 519]

Russell v. Stanford University Hospital (1996) 44 Cal.App.4th 1798 [52 Cal.Rptr.2d 645]

-definition of "continuous representation" for purposes of

Lockley v. Law Office of Cantrell, Green, Pekich, Cruz & McCort (2001) 91 Cal.App.4th 875 [110 Cal.Rptr.2d 877]

-not tolled by third-party litigation or attorney's later role as consultant

Foxborough v. Van Atta (1994) 26 Cal.App.4th 217 [31 Cal.Rptr.2d 525]

-"outside" statute of limitations for medical malpractice action not tolled by 90-day period for notice of intent to sue

Rewald v. San Pedro Peninsula Hospital (1994) 27 Cal.App.4th 480 [32 Cal.Rptr.2d 411]

-statute of limitations for legal malpractice action tolled while attorney still represents client on related matters, even if client knows of attorney's negligence

Crouse v. Brobeck, Phleger & Harrison (1998) 67 Cal.App.4th 1509 [80 Cal.Rptr.2d 94]

-tolled for bringing legal malpractice action while attorney continues to represent plaintiff even where plaintiff knows of attorney's wrongful act/omission

Crouse v. Brobeck, Phleger & Harrison (1998) 67 Cal.App.4th 1509 [80 Cal.Rptr.2d 94]

O'Neill v. Tichy (1993) 19 Cal.App.4th 114

-tolled when plaintiff gives notice required by CCP § 364 within the last 90 days of the one-year statute

Russell v. Stanford University Hospital (1996) 44 Cal.App.4th 1798 [52 Cal.Rptr.2d 645]

Woods v. Young (1991) 53 Cal.3d 315 [807 P.2d 455]

-unconditionally tolled while attorney represents client

Kulesa v. Castleberry (1996) 47 Cal.App.4th 103 [54 Cal.Rptr.2d 669]

Third-party non-clients, liability to

Waggoner v. Snow, Becker, Kroll, Klaris and Kraus (1993) 991 F.2d 1501

B.L.M. v. Sabo & Deitsch (1997) 55 Cal.App.4th 823 [64 Cal.Rptr.2d 335]

Burger v. Pond (1990) 224 Cal.App.3d 597 [273 Cal.Rptr. 709]

MILITARY PERSONNEL [See Attorneys of governmental agencies.]

Deserter, whereabouts disclosed

LA(l) 1956-1

MISAPPROPRIATION [See Clients' trust account.]

MISCONDUCT

MISCONDUCT [See Candor. Contempt of court. Corporations. Professional liability. Trial Conduct.]

Abandonment of client

In the Matter of Bailey (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 220

In the Matter of Doran (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 871

Abdication of trust account responsibilities

In the Matter of Doran (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 871

Active steps to prejudice client's rights

In the Matter of Doran (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 871

Acts of privately retained counsel and publicly appointed counsel should be measured by the same standards, except as otherwise provided by statute

Barnerv. Leeds (2000) 24 Cal.4th 676 [102 Cal.Rptr.2d 97]

Advocating overthrow of government by force, violence or other unconstitutional means

Business and Professions Code section 6106.1

Alcoholism

In re Billings (1990) 50 Cal.3d 358 [787 P.2d 617]

Appearance on own behalf as plaintiff

by disbarred or suspended attorney

-when action assigned subsequent to disbarment or suspension order

Business and Professions Code § 6130

Appearing without authority for client

Business and Professions Code section 6104

Ainsworth v. State Bar (1988) 46 Cal.3d 1218 [252 Cal.Rptr.267]

In the Matter of Phillips (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 315

"appearing" defined for purposes of B & P § 6104

In the Matter of Lais (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 907

Assault with a firearm warrants suspension but because of extensive mitigation does not involve moral turpitude

*In the Matter of Burns (Review Dept. 1995) 3 Cal. State Bar Ct. Rptr. 406

Assault on client (premeditated) does not equal moral turpitude

In re Larkin (1989) 48 Cal.3d 236 [256 Cal.Rptr. 90]

Attempted child molestation

In re Lesansky (2001) 25 Cal.4th 11 [104 Cal.Rptr.2d 409, 17 P.3d 764]

Attempting to prevent discovery

Price v. State Bar (1982) 30 Cal.3d 537 [179 Cal.Rptr. 914, 638 P.2d 1311]

Attorney neglect

State of California v. Bragg (1986) 183 Cal.App.3d 1018 [228 Cal.Rptr. 768]

Rosenthal v. Garner (1983) 142 Cal.App.3d 891 [191 Cal.Rptr. 300]

In the Matter of Bailey (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 220

In the Matter of Dahlz (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 269

In the Matter of Freydl (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 349

In the Matter of Phillips (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 315

In the Matter of Johnson (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 179

imputed to client

Elston v. Turlock (1983) 148 Cal.App.3d 23 [195 Cal.Rptr. 618]

not necessarily binding on client

State of California v. Bragg (1986) 183 Cal.App.3d 1018 [228 Cal.Rptr. 576]

Breach of fiduciary duty

civil judgment for fraud and breach of fiduciary duty establishes moral turpitude

In the Matter of Kittrell (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 195

to non-client joint ventures

Galardi v. State Bar (1987) 43 Cal.3d 683 [238 Cal.Rptr. 774]

Pavich v. Santucci (2000) 85 Cal.App.4th 382 [102 Cal.Rptr.2d 125]

Bribe(s)

judge accepted

In the Matter of Jenkins (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 157

payment to attorney for

Best v. State Bar (1962) 57 Cal.2d 633 [21 Cal.Rptr. 589, 371 P.2d 325]

Werner v. State Bar (1944) 24 Cal.2d 611 [150 P.2d 892]

Business transaction, improper

In the Matter of Silverton (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 252

Carrying a concealed weapon

In re Hickey (1990) 50 Cal.3d 571 [788 P.2d 684]

Chose in action

purchase by attorney with intent to bring suit thereon

Business and Professions Code section 6129

Client reliance on attorney

County of San Diego v. Magri (1984) 156 Cal.App.3d 641 [203 Cal.Rptr. 52]

Collusion

consent to, with intent to deceive court or party

-misdemeanor

Business and Professions Code section 6128(a)

Comments in court

Curcio v. Svanevik (1984) 155 Cal.App.3d 955 [202 Cal.Rptr. 499]

Commingleing

In the Matter of Kauffman (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 213

Conspiracy

alleged by client against attorney and others

Villa Pacific Building Co. v. Superior Court (1991) 233 Cal.App.3d 8

conspiracy to commit offenses against the United States

In re Kreitenberg (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 469

identity theft

In re Kreitenberg (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 469

liability for tortious acts committed in concert with clients

Pavich v. Santucci (2000) 85 Cal.App.4th 382 [102 Cal.Rptr.2d 125]

Hung v. Wang (1992) 8 Cal.App.4th 908

Wolfrich v. United Services Automobile Association (1983) 149 Cal.App.3d 1206

waiver of procedural defense

Villa Pacific Building Co. v. Superior Court (1991) 233 Cal.App.3d 8

"Contumacious" motion for substitution

United States v. Lee (9th Cir. 1983) 720 F.2d 1049

Conviction, felony or misdemeanor, moral turpitude

Business and Professions Code section 6101

dismissal or acquittal of criminal charges does not bar disciplinary proceedings covering the same facts

In the Matter of Jenkins (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 157

is basis for discipline, not a conviction

In re Gross (1983) 33 Cal.3d 561, 568 [189 Cal.Rptr. 848, 659 P.2d 1137]

Corruption

whether or not in course of relations as attorney

Business and Professions Code section 6106

Counsel's basis for reversal of judgment in judicial proceeding report by clerk to State Bar

Business and Professions Code section 6086.7

Court

appearing in court while intoxicated

MISCONDUCT

- Ridge v. State Bar (1989) 47 Cal.3d 952 [254 Cal.Rptr. 803]
- dishonesty to
- In the Matter of Phillips (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 315
- In the Matter of Johnson (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 179
- duty not to mislead
- In the Matter of Chestnut (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 166
- improper contact with juror
- In re Possino (1984) 37 Cal.3d 163, 170 [207 Cal.Rptr. 543, 689 P.2d 115]
- Court order
- violation
- Business and Professions Code section 6103
- Criminal conviction
- summary disbarment for attempted child molestation
- In re Lesansky (2001) 25 Cal.4th 11 [104 Cal.Rptr.2d 409, 17 P.3d 764]
- summary disbarment for forgery
- In re Paguirigan (2001) 25 Cal.4th 1 [104 Cal.Rptr.2d 402, 17 P.3d 758]
- Deceit
- In the Matter of Lais (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 112
- In the Matter of Lantz (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 126
- consent to, with intent to deceive court or party
- misdemeanor
- Business and Professions Code section 6128(a)
- Decorum in courtroom
- People v. Rainey (1964) 224 Cal.App.2d 93, 94-98 [36 Cal.Rptr. 291]
- Deception and concealment amounting to moral turpitude
- In the Matter of Kittrell (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 195
- Default judgment
- failure to take action to set aside
- Moore v. State Bar (1964) 62 Cal.2d 74, 78 [41 Cal.Rptr. 161, 396 P.2d 577]
- Hyland v. State Bar (1963) 59 Cal.2d 765, 772 [31 Cal.Rptr. 329, 382 P.2d 396]
- Cheleden v. State Bar (1942) 20 Cal.2d 133, 138 [124 P.2d 1]
- improperly obtaining
- Grove v. State Bar (1965) 63 Cal.2d 312, 314 [46 Cal.Rptr. 513, 405 P.2d 553]
- permitting without client's authority
- Monroe v. State Bar (1961) 55 Cal.2d 145, 150 [10 Cal.Rptr. 257, 356 P.2d 529]
- Defense in criminal action aiding, promoting, or advising where partner is district attorney or public prosecutor
- Business and Professions Code section 6131(a)
- Delay
- client's suit
- with view to attorney's gain
- misdemeanor
- Business and Professions Code section 6128(b)
- "Dirty tricks" disrupting political campaign in acts unrelated to attorney's practice of law
- Segretti v. State Bar (1976) 15 Cal.3d 878 [126 Cal.Rptr. 793]
- Disbarred attorney
- appearing as plaintiff on own behalf where action assigned to attorney subsequent to disbarment order
- Business and Professions Code section 6130
- judge disbarred in California after disbarment in Michigan
- In the Matter of Jenkins (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 157
- Dishonesty
- borrowing money without intent to repay it
- In the Matter of Petilla (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 231
- judge systemically and routinely sold his office and his public trust
- In the Matter of Jenkins (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 157
- to adverse party's lawyer
- Hallinan v. State Bar (1948) 33 Cal.2d 246 [200 P.2d 787]
- In the Matter of Dahlz (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 269
- In the Matter of Phillips (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 315
- to client
- Stevens v. State Bar (1990) 51 Cal.3d 283 [794 P.2d 925]
- Gadda v. State Bar (1990) 50 Cal.3d 344 [787 P.2d 95]
- Hitchcock v. State Bar (1989) 48 Cal.3d 690 [257 Cal.Rptr. 696]
- Rossman v. State Bar (1985) 39 Cal.3d 539 [216 Cal.Rptr. 919, 703 P.2d 390]
- In the Matter of Phillips (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 315
- In the Matter of Kittrell (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 195
- to court
- In the Matter of Dahlz (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 269
- In the Matter of Phillips (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 315
- In the Matter of Chestnut (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 166
- In the Matter of Johnson (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 179
- filing false documents under penalty of perjury
- Bryan v. Bank of America (2001) 86 Cal.App.4th 185 [103 Cal.Rptr.2d 148]
- whether or not in course of relations as attorney
- Business and Professions Code section 6106
- Disregard for obligations to the legal profession and to clients
- In the Matter of Freydl (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 349
- District attorney
- advises, takes part in, or receives valuable consideration in criminal defense
- where prosecuted action
- Business and Professions Code section 6131(b)
- Driving under influence of alcohol, conviction for
- In re Carr (1988) 46 Cal.3d 1089
- In the Matter of Respondent I (Review Dept. 1993) 2 Cal. State Bar Ct. Rptr. 260
- In the Matter of Carr (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 108
- In the Matter of Anderson (Review Dept. 1990) 1 Cal. State Bar Ct. Rptr. 39
- Drunkenness in public
- In re Hickey (1990) 50 Cal.3d 571 [788 P.2d 684]
- Duties of attorney, violation of
- Business and Professions Code sections 6068, 6103
- Duty to report violation of Rules of Professional Conduct and/or related statutes
- SD 1992-2, LA 440 (1986)
- Evidence of debt
- purchase by attorney with intent to bring suit thereon
- Business and Professions Code section 6129
- Ex parte communication with judge
- judge engaged in improper ex parte conversations with parties and counsel about matters coming before him as a judge
- In the Matter of Jenkins (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 157
- Failing to maintain respect due courts
- Hogan v. State Bar (1951) 36 Cal.2d 807, 808 [228 P.2d 554]
- People v. Chong (1999) 76 Cal.App.4th 232 [90 Cal.Rptr.2d 198]

MISCONDUCT

Failure to appear in a probation violation proceeding

In the Matter of Freydl (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 349

Failure to communicate with client

Friedman v. State Bar (1990) 50 Cal.3d 235 [786 P.2d 359]

Gold v. State Bar (1989) 49 Cal.3d 908 [782 P.2d 264]

Blair v. State Bar (1989) 49 Cal.3d 762 [263 Cal.Rptr. 641]

Pineda v. State Bar (1989) 49 Cal.3d 753 [263 Cal.Rptr. 377]

Hitchcock v. State Bar (1989) 48 Cal.3d 690 [257 Cal.Rptr. 696]

Levin v. State Bar (1989) 47 Cal.3d 1140 [255 Cal.Rptr. 422, 767 P.2d 689]

Ballard v. State Bar (1983) 35 Cal.3d 274 [197 Cal.Rptr. 556]

Gordon v. State Bar (1982) 31 Cal.3d 748, 757 [183 Cal.Rptr. 861, 647 P.2d, 137]

In re Gadda (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 416

In the Matter of Bailey (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 220

In the Matter of Dahlz (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 269

In the Matter of Freydl (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 349

In the Matter of Phillips (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 315

In the Matter of Johnson (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 179

In the Matter of Collins (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 1

In the Matter of Taylor (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 563

Failure to cooperate in disciplinary investigation

In the Matter of Bailey (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 220

In the Matter of Freydl (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 349

Failure to cooperate with first appointed attorney

Franklin v. Murphy (9th Cir. 1984) 745 F.2d 1221, 1236

Failure to keep the State Bar advised of current address

In the Matter of Bailey (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 220

In the Matter of Freydl (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 349

Failure to preserve confidences and secrets

Ainsworth v. State Bar (1988) 46 Cal.3d 1218 [252 Cal.Rptr. 267]

In the Matter of Johnson (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 179

Failure to properly prevent direct contact with represented parties by correspondence of employees

Crane v. State Bar (1981) 30 Cal.3d 117, 122 [177 Cal.Rptr. 670, 635 P.2d 163]

Failure to release client funds

Friedman v. State Bar (1990) 50 Cal.3d 235 [786 P.2d 359]

Rhodes v. State Bar (1989) 49 Cal.3d 50 [260 Cal.Rptr. 266]

Gordon v. State Bar (1982) 31 Cal.3d 748, 757 [183 Cal.Rptr. 861, 647 P.2d, 137]

In re Gadda (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 416

In re Valinoti (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 498

In the Matter of Freydl (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 349

In the Matter of Phillips (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 315

Failure to return client file

In the Matter of Bailey (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 220

Failure to return unearned fees

Bernstein v. State Bar (1990) 50 Cal.3d 221 [786 P.2d 352]

Silva-Vidor v. State Bar (1989) 49 Cal.3d 1071 [782 P.2d 680]

Slavkin v. State Bar (1989) 49 Cal.3d 894 [264 Cal.Rptr. 131]

Matthew v. State Bar (1989) 49 Cal.3d 784 [263 Cal.Rptr. 660]

Pineda v. State Bar (1989) 49 Cal.3d 753 [263 Cal.Rptr. 377]

Twohy v. State Bar (1989) 48 Cal.3d 502

Ballard v. State Bar (1983) 35 Cal.3d 274

In re Gadda (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 416

In re Valinoti (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 498

In the Matter of Freydl (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 349

In the Matter of Phillips (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 315

In the Matter of Johnson (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 179

In the Matter of Harris (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 219

In the Matter of Taylor (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 563

Failure to supervise non-attorney employee

In the Matter of Phillips (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 315

Failure to withdraw where required

Slavkin v. State Bar (1989) 49 Cal.3d 894 [264 Cal.Rptr. 131]

False or fraudulent insurance claim

preparation of writing to be used in support of
Business and Professions Code section 6106.5(b)
presentation of
Business and Professions Code section 6106.5(a)

False or fraudulent statements in banking transactions

In the Matter of Jebbia (Review Dept. 1999) 4 Cal. State Bar Ct. Rptr. 51

In the Matter of Sawyer (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 765

False statement to a police officer

Arm v. State Bar (1990) 50 Cal.3d 763 [268 Cal.Rptr. 789, 789 P.2d 922]

False testimony by attorney before a grand jury

perjury

Montag v. State Bar (1982) 32 Cal.3d 721 [186 Cal.Rptr. 894, 652 P.2d 1370]

Fee split with non-lawyer

Ainsworth v. State Bar (1988) 46 Cal.3d 1218 [252 Cal.Rptr. 267]

Felony involving moral turpitude

Business and Professions Code section 6101

Forgery

no violation found when successor attorney authorizes an
employee to simulate the prior attorney's signature on a
settlement draft

In the Matter of Respondent H (Review Dept. 1992) 2
Cal. State Bar Ct. Rptr. 234

settlement documents

In the Matter of Kauffman (Review Dept. 2001) 4 Cal.
State Bar Ct. Rptr. 213

summary disbarment

In re Paguirigan (2001) 25 Cal.4th 1 [104 Cal.Rptr.2d
402, 17 P.3d 758]

sureties

-forging names of

Utz v. State Bar (1942) 21 Cal.2d 100, 102 [130
P.2d 377]

Frivolous appeal

Pierotti, et al. v. Torian (2000) 81 Cal.App.4th 17 [96
Cal.Rptr.2d 553]

solely for delay

Ainsworth v. State Bar (1988) 46 Cal.3d 1218 [252
Cal.Rptr. 267]

Gifts and favors from litigants and counsel

judge improperly accepted

In the Matter of Jenkins (Review Dept. 2000) 4 Cal.
State Bar Ct. Rptr. 157

MISCONDUCT

Grand theft

Bercovich v. State Bar (1990) 50 Cal.3d 116 [785 P.2d 889]
In re Basinger (1988) 45 Cal.3d 1348 [249 Cal.Rptr. 110, 756 P.2d 833]
In re Doe (1978) 20 Cal.3d 550 [143 Cal.Rptr. 253, 573 P.2d 472]

Gross carelessness and negligence constitutes a violation of an attorney's oath

Jackson v. State Bar (1979) 23 Cal.3d 509, 513 [153 Cal.Rptr. 24, 591 P.2d 47]
appearing for party without authority
Business and Professions Code section 6104

Holding out as specialist

Rule 1-400(D)(6), Rules of Professional Conduct (operative June 1, 1997)
Rule 1-400, std. 11, Rules of Professional Conduct (operative May 27, 1989 until May 31, 1997)
Peel v. Attorney Regulatory and Disciplinary Commission of Illinois (1990) 496 U.S. 91 [110 S.Ct. 2281]
Wright v. Williams (1975) 47 Cal.App.3d 802 [121 Cal.Rptr. 194]

Ignoring pro bono clients

Segal v. State Bar (1988) 44 Cal.3d 1077 [245 Cal.Rptr. 404]

Illegal drug transactions

In re Possino (1984) 37 Cal.3d 163, 169-170 [207 Cal.Rptr. 543, 689 P.2d 115]

Inadequate supervision of associate by attorney

duty to supervise
Moore v. State Bar (1964) 62 Cal.2d 74, 81 [41 Cal.Rptr. 161, 396 P.2d 577]

Incompetent representation

basis for reversal of judgment in judicial proceeding
--report by clerk to State Bar
Business and Professions Code section 6086.7

Intimidation of witness

In re Lee (1988) 47 Cal.3d 471 [253 Cal.Rptr. 570]

Issuing checks with insufficient funds in account

Rhodes v. State Bar (1989) 49 Cal.3d 50 [260 Cal.Rptr. 266]
Segal v. State Bar (1988) 44 Cal.3d 1077 [245 Cal.Rptr. 404]
Gordon v. State Bar (1982) 31 Cal.3d 748, 757 [183 Cal.Rptr. 861, 647 P.2d, 137]
Alkow v. State Bar (1952) 38 Cal.2d 257 [92 Cal.Rptr. 278]

Knowledge of Rules of Professional Conduct is not an element of offense of misconduct

Ainsworth v. State Bar (1988) 46 Cal.3d 1218 [252 Cal.Rptr. 267]
Zitny v. State Bar (1966) 64 Cal.2d 787, 793 [51 Cal.Rptr. 825, 415 P.2d 521]

Lending name to non-attorney to be used as attorney

Business and Professions Code section 6105

Minors involved in illicit conduct as a result of attorney's activities

In re Duggan (1976) 17 Cal.3d 416 [130 Cal.Rptr. 715]
In re Plotner (1971) 5 Cal.3d 714 [97 Cal.Rptr. 193]
In the Matter of Deierling (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 552

Misappropriation of client funds

In the Matter of Kauffman (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 213

Misappropriation of law partnership funds

Kaplan v. State Bar (1991) 52 Cal.3d 1067 [804 P.2d 720]
In re Basinger (1988) 45 Cal.3d 1348 [249 Cal.Rptr. 110, 756 P.2d 833]

Misdemeanor

advertising or holding out as entitled to practice law following disbarment or during suspension
Business and Professions Code section 6126
collusion or consent to collusion with intent to deceive court or party
Business and Professions Code section 6128(a)
deceit or intent to deceive any court or party
Business and Professions Code section 6128(a)

defense in criminal action

-advising, aiding, or promoting when partner is district attorney or public prosecutor

Business and Professions Code section 6131(a)

delay of client's suit for attorney's own gain

Business and Professions Code section 6128(b)

for district attorney or public prosecutor to advise, take part in or receive valuable consideration in criminal defense

-where prosecuted action

Business and Professions Code section 6131(b)

purchase or interest in evidence of debt or thing in action, with intent to bring suit thereon

Business and Professions Code section 6129

receive funds for which attorney not laid out or become answerable for

Business and Professions Code section 6128(c)

Misdemeanor involving moral turpitude

Business and Professions Code section 6101

Misrepresentation

concealing terms of an insurance policy during settlement negotiation

Home Insurance Co. v. Zurich Insurance Co. (2002) 96 Cal.App.4th 17 [116 Cal.Rptr.2d 583]

of counsel

-basis for reversal of judgment in judicial proceeding

--report by clerk to State Bar

Business and Professions Code section 6086.7

Moral turpitude [See Moral Turpitude.]

act involving

-whether or not in course of relations as attorney

Business and Professions Code section 6106

borrowing money without intent to repay it

In the Matter of Petilla (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 231

civil judgment for fraud and breach of fiduciary duty establishes moral turpitude

In the Matter of Kittrell (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 195

criminal conduct not committed in the practice of law or against a client

In re Lesansky (2001) 25 Cal.4th 11 [104 Cal.Rptr.2d 409, 17 P.3d 764]

dishonesty

In the Matter of Dahlz (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 269

In the Matter of Phillips (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 315

In the Matter of Chestnut (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 166

In the Matter of Johnson (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 179

felony involving

Business and Professions Code sections 6101, 6106

Jackson v. State Bar (1979) 23 Cal.3d 509 [153 Cal.Rptr. 24, 591 P.2d 47]

honest and reasonable belief, though mistaken, precludes a finding of moral turpitude

In the Matter of Silverton (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 252

judge systematically and routinely sold his office and his public trust

In the Matter of Jenkins (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 157

misdemeanor involving

Business and Professions Code sections 6101, 6106

serious sexual offenses

In re Lesansky (2001) 25 Cal.4th 11 [104 Cal.Rptr.2d 409, 17 P.3d 764]

Negligent legal representation by itself does not prove misconduct

In the Matter of Torres (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 138

MISCONDUCT

- Oath of attorney, violation of
 - Business and Professions Code sections 6067, 6103
 - People v. Chong (1999) 76 Cal.App.4th 232 [90 Cal.Rptr.2d 198]
- Obstruction of justice
 - attorney has right to argue ethical obligations establish a bona fide legal representation defense
 - United States v. Kellington (9th Cir. (Oregon) 2000) 217 F.3d 1084
- Offensive and contemptuous conduct by attorney in court
 - People v. Chong (1999) 76 Cal.App.4th 232 [90 Cal.Rptr.2d 198]
- Offensive personality
 - Business and Professions Code section 6068(f)
 - Ainsworth v. State Bar (1988) 46 Cal.3d 1218 [252 Cal.Rptr. 267]
- Partnership
 - with non-lawyer
 - prohibited if partnership activities constitute practice of law
 - Rule 3-103, Rules of Professional Conduct (operative until May 26, 1989)
 - Rule 1-310, Rules of Professional Conduct (operative as of May 27, 1989)
 - In the Matter of Phillips (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 315
- Pattern of misconduct
 - In the Matter of Doran (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 871
- Perjury
 - judge solicited the commission of perjury in a federal investigation
 - In the Matter of Jenkins (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 157
- Prejudicial intimations may not amount to the advancement of prejudicial facts
 - In the Matter of Torres (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 138
- Prejudicial statements during closing argument
 - Menasco v. Snyder (1984) 157 Cal.App.3d 736 [203 Cal.Rptr. 842]
- Presentation of false or fraudulent insurance claims
 - Business and Professions Code section 6106.5(a)
- Prior to admission to the State Bar
 - Stratmore v. State Bar (1975) 14 Cal.3d 887 [123 Cal.Rptr. 101]
 - In the Matter of Ike (Review Dept. 1996) 3 Cal. State Bar Ct. Rptr. 483
 - In the Matter of Lybbert (Review Dept. 1994) 2 Cal. State Bar Ct. Rptr. 297
 - In the Matter of Passenheim (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 62
- Pro bono client, ignoring
 - Segal v. State Bar (1988) 44 Cal.3d 1077 [245 Cal.Rptr. 404]
- Pro hac vice attorney
 - censure for failure to follow local court rules
 - United States v. Summet (9th Cir. 1988) 862 F.2d 784
- Public prosecutor
 - advises, takes part in or receives valuable consideration in criminal defense
 - where acted as prosecutor in matter
 - Business and Professions Code section 6131(b)
- Purchase, with intent to bring suit
 - chose in action
 - Business and Professions Code section 6129
 - evidence of debt
 - Business and Professions Code section 6129
- Receipt of funds
 - on account for which not laid out or become answerable for
 - misconduct
 - Business and Professions Code section 6128(c)
- Reckless misstatements of fact and law coupled with an improper purpose
 - Fink v. Gomez (9th Cir. 2001) 239 F.3d 989
- Recording a conversation (Penal Code section 632)
 - Kimmel v. Goland (1990) 51 Cal.3d 202 [271 Cal.Rptr. 191]
 - In the Matter of Wyrick (State Bar Ct. 1992) 2 Cal. State Bar Ct. Rptr. 83
 - applicability to city attorney while prosecuting misdemeanor cases (Penal Code section 633)
 - 79 Ops. Cal. Atty. Gen. 221 (9/16/96; No. 96-304)
 - telephone
 - Kimmel v. Goland (1990) 51 Cal.3d 202 [271 Cal.Rptr. 191]
 - CAL 1966-5, LA 272 (1962), LA 182 (1951)
- Repeated violations of Rules of Professional Conduct
 - Ainsworth v. State Bar (1988) 46 Cal.3d 1218 [252 Cal.Rptr. 267]
 - Dixon v. State Bar (1982) 32 Cal.3d 728 [187 Cal.Rptr. 30, 653 P.2d 321]
- Reversal of judgment
 - based upon counsel's
 - mandatory report by clerk to State Bar
 - Business and Professions Code section 6086.7
- Sanctions
 - Code of Civil Procedure section 128.5
- Settling a case without authority
 - In the Matter of Kauffman (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 213
- Suspended attorney
 - appearing as plaintiff on own behalf where action assigned to attorney subsequent to order of suspension
 - Business and Professions Code section 6130
- Unauthorized representation
 - Zirbes v. Stratton (1986) 187 Cal.App.3d 1407 [232 Cal.Rptr. 653]
- Violence against spouse and others
 - In re Hickey (1990) 50 Cal.3d 571 [788 P.2d 684]
- Willful failure of suspended attorney to comply with California Rule of Court 955
 - Lydon v. State Bar (1988) 45 Cal.3d 1181 [248 Cal.Rptr. 830]
 - Matter of Lynch (Review Dept. 1995) 3 Cal. State Bar Ct. Rptr. 287
 - In the Matter of Snyder (Review Dept. 1993) 2 Cal. State Bar Ct. Rptr. 593
 - In the Matter of Friedman (Review Dept. 1993) 2 Cal. State Bar Ct. Rptr. 527
 - In the Matter of Rodriguez (Review Dept. 1993) 2 Cal. State Bar Ct. Rptr. 480
 - In the Matter of Grueneicha (Review Dept. 1993) 2 Cal. State Bar Ct. Rptr. 439
 - In the Matter of Rose (Review Dept. 1994) 3 Cal. State Bar Ct. Rptr. 192
 - does not require bad faith or knowledge of provision violated
 - Powers v. State Bar (1988) 44 Cal.3d 337 [748 P.2d 324]
 - Hamilton v. State Bar (1979) 23 Cal.3d 868 [153 Cal.Rptr. 602]
- Willful failure to file tax return
 - absent finding of moral turpitude
 - In re Morales (1983) 35 Cal.3d 1
 - In re Rohan (1978) 21 Cal.3d 195 [145 Cal.Rptr. 855, 578 P.2d 102]
 - In the Matter of Weber (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 942
 - +In the Matter of John Michael Brown (Review Dept. 1995) 3 Cal. State Bar Ct. Rptr. 246
 - In re Michael Brown (1995) 12 Cal.4th 205
 - concealing personal funds improperly maintained in a client trust account
 - In the Matter of Koehler (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 615

MODEL CODE OF PROFESSIONAL RESPONSIBILITY

Willful failure to perform and communicate

Stevens v. State Bar (1990) 51 Cal.3d 283 [794 P.2d 925]
In re Billings (1990) 50 Cal.3d 358 [787 P.2d 617]
Bernstein v. State Bar (1990) 50 Cal.3d 221 [786 P.2d 352]
Sands v. State Bar (1989) 49 Cal.3d 919 [782 P.2d 595]
Gold v. State Bar (1989) 49 Cal.3d 908 [782 P.2d 264]
Blair v. State Bar (1989) 49 Cal.3d 762 [263 Cal.Rptr. 641]
Pineda v. State Bar (1989) 49 Cal.3d 753 [263 Cal.Rptr. 377]
Ainsworth v. State Bar (1988) 46 Cal.3d 1218 [252 Cal.Rptr. 267]
Gary v. State Bar (1988) 44 Cal.3d 820 [244 Cal.Rptr. 482]
Garlow v. State Bar (1988) 44 Cal.3d 689 [244 Cal.Rptr. 452, 749 P.2d 1807]
Carter v. State Bar (1988) 44 Cal.3d 1091 [245 Cal.Rptr. 628]
Kent v. State Bar (1987) 43 Cal.3d 729 [239 Cal.Rptr. 77]
Franklin v. State Bar (1986) 41 Cal.3d 700 [224 Cal.Rptr. 738]
Rossman v. State Bar (1985) 39 Cal.3d 539 [216 Cal.Rptr. 919]
Smith v. State Bar (1985) 38 Cal.3d 525, 537-538 [213 Cal.Rptr. 236]
Trousil v. State Bar (1985) 38 Cal.3d 337, 340-341 [211 Cal.Rptr. 525]
Smith v. State Bar (1984) 37 Cal.3d 17 [206 Cal.Rptr. 545]
Wren v. State Bar (1983) 34 Cal.3d 81 [192 Cal.Rptr. 743, 665 P.2d 515]
In the Matter of Dahlz (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 269
In the Matter of Phillips (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 315
In the Matter of Johnson (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 179
In the Matter of Hertz (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 456
ignoring pro bono clients
Segal v. State Bar (1988) 44 Cal.3d 1077 [245 Cal.Rptr. 404]

Willful violation of court order

Nilsson v. Louisiana Hydrolec (9th Cir. 1988) 854 F.2d 1538
Ainsworth v. State Bar (1988) 46 Cal.3d 1218 [252 Cal.Rptr. 267]
People v. Chong (1999) 76 Cal.App.4th 232 [90 Cal.Rptr.2d 198]

Willful violation of oath and duties as attorney

failure to notify client of change of address, telephone number
Ainsworth v. State Bar (1988) 46 Cal.3d 1218 [252 Cal.Rptr. 267]
practicing law while suspended
Ainsworth v. State Bar (1988) 46 Cal.3d 1218 [252 Cal.Rptr. 267]
tendering checks without sufficient funds
Ainsworth v. State Bar (1988) 46 Cal.3d 1218 [252 Cal.Rptr. 267]

Willful violation of oath and duties of attorney in court of law

People v. Chong (1999) 76 Cal.App.4th 232 [90 Cal.Rptr.2d 198]

Willful violation of Rules of Professional Conduct

established by showing attorney acted or omitted to act purposely
Beery v. State Bar (1987) 43 Cal.3d 802 [239 Cal.Rptr. 121]
In the Matter of Respondent G (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 175

Writ of habeas corpus

judge granted without adequate information to help a friend
In the Matter of Jenkins (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 157

MODEL CODE OF PROFESSIONAL RESPONSIBILITY [See American Bar Association Model Code of Professional Responsibility.]

MORAL TURPITUDE

Business and Professions Code section 6106

Abandonment of clients' interest

Stanley v. State Bar (1990) 50 Cal.3d 555 [788 P.2d 697]
In re Billings (1990) 50 Cal.3d 358 [787 P.2d 617]
Walker v. State Bar (1989) 49 Cal.3d 1107 [783 P.2d 184]
Phillips v. State Bar (1989) 49 Cal.3d 944 [782 P.2d 587]
Sands v. State Bar (1989) 49 Cal.3d 919 [782 P.2d 595]
Slavkin v. State Bar (1989) 49 Cal.3d 894 [264 Cal.Rptr. 131]
Baker v. State Bar (1989) 49 Cal.3d 804 [781 P.2d 1344]
Matthew v. State Bar (1989) 49 Cal.3d 784 [263 Cal.Rptr. 660]
Pineda v. State Bar (1989) 49 Cal.3d 753 [263 Cal.Rptr. 377]
Bowles v. State Bar (1989) 48 Cal.3d 100 [255 Cal.Rptr. 846]
Van Sloten v. State Bar (1989) 48 Cal.3d 921 [258 Cal.Rptr. 235]
Natali v. State Bar (1988) 45 Cal.3d 456 [247 Cal.Rptr. 165]
Gary v. State Bar (1988) 44 Cal.3d 820 [244 Cal.Rptr. 482]
Hunnicutt v. State Bar (1988) 44 Cal.3d 362 [748 P.2d 1161]
Franklin v. State Bar (1986) 41 Cal.3d 700 [224 Cal.Rptr. 738]
Stuart v. State Bar (1985) 40 Cal.3d 838, 842-843 [221 Cal.Rptr. 557]
Baranowski v. State Bar (1979) 24 Cal.3d 153, 162-163 [154 Cal.Rptr. 752, 593 P.2d 613]
Hansen v. State Bar (1978) 23 Cal.3d 68, 70 [151 Cal.Rptr. 343, 587 P.2d 1156]
Wells v. State Bar (1978) 20 Cal.3d 708, 714 [144 Cal.Rptr. 133, 575 P.2d 285]
refusal of defense counsel to pursue client's desire to withdraw guilty plea not abandonment when done for ethical reasons

People v. McLeod (1989) 210 Cal.App.3d 585 [258 Cal.Rptr. 496]

Abortion, procuring

In re Plotner (1971) 5 Cal.3d 714, 726-727 [97 Cal.Rptr. 193, 488 P.2d 385]

Acceptance of employment adverse to a former client

Sheffield v. State Bar (1943) 22 Cal.2d 627 [140 P.2d 376]

Accepting a bribe

In re Bar Association of San Francisco (1921) 185 Cal. 621, 636 [dismissal] [198 P.7]

Accepting fees without performing work [See Fees.]

Alkow v. State Bar (1971) 3 Cal.3d 924, 934-935 [92 Cal.Rptr. 278]

Advancing untrue facts prejudicial to opposing party

In the Matter of Wyshak (Review Dept. 1999) 4 Cal. State Bar Ct. Rptr. 70

Adverse interests

Lee v. State Bar (1970) 2 Cal.3d 927, 941 [88 Cal.Rptr. 361]

acquisition of

Marlowe v. State Bar (1965) 63 Cal.2d 304, 308-309 [46 Cal. Rptr. 3226, 405 P.2d 150]

Advertising [See Advertising and Solicitation of Business.]

Alcoholism

In re Kelley (1990) 52 Cal.3d 487 [801 P.2d 1126]

In re Billings (1990) 50 Cal.3d 358 [787 P.2d 617]

Alteration of evidence presented in a criminal trial

Price v. State Bar (1982) 30 Cal.3d 537, 541, 547-548 [179 Cal.Rptr. 914, 638 P.2d 1311]

Alteration of name of grantee on deed

Hinds v. State Bar (1941) 19 Cal.2d 87, 89-93 [119 P.2d 134]

Altering will so as to be admitted to probate

Bar Association of San Francisco v. DeVall (1922) 59 Cal.App. 230 [210 P. 279]

Assignment of chose in action for legal malpractice

Goodley v. Wank & Wank, Inc. (1976) 62 Cal.App.3d 389 [133 Cal.Rptr. 83]

MORAL TURPITUDE

- Attempted child molestation
 - In re Lesansky (2001) 25 Cal.4th 11 [104 Cal.Rptr.2d 409, 17 P.3d 764]
- Attempt to extort money
 - Barton v. State Bar (1935) 2 Cal.2d 294
- Attempt to receive stolen property
 - In re Conflenti (1981) 29 Cal.3d 120 [172 Cal.Rptr. 203, 624 P.2d 253]
- Attorney's attempt to kill former client equals moral turpitude
 - In re Mostman (1989) 47 Cal.3d 725 [254 Cal.Rptr. 286]
- Attorney's name, allowing lay employee to use
 - McGregor v. State Bar (1944) 24 Cal.2d 283, 288-289 [148 P.2d 865]
- Bar examination
 - taking Bar examination for another
 - In re Lamb (1989) 49 Cal.3d 239 [260 Cal.Rptr. 856]
- Borrowing money without intent to repay it
 - In re Peavey (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 483
 - In the Matter of Petilla (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 231
- Breach of fiduciary duty
 - Fall v. State Bar (1944) 25 Cal.2d 149, 159 [153 P.2d 1]
 - civil judgment for fraud and breach of fiduciary duty establishes moral turpitude
 - In the Matter of Kittrell (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 195
- Bribery
 - Sands v. State Bar (1989) 49 Cal.3d 919 [782 P.2d 595]
 - In re Severo (1986) 41 Cal.3d 493 [224 Cal.Rptr. 106]
 - In re Hanley (1975) 13 Cal.3d 445, 451 [119 Cal. Rptr. 5, 530 P.2d 1381]
 - Toll v. State Bar (1974) 12 Cal.3d 824, 826-830 [117 Cal.Rptr. 427, 528 P.2d 35]
 - Skelly v. State Bar (1973) 9 Cal.3d 502 [dismissal] [108 Cal.Rptr. 6, 509 P.2d 950]
 - Werner v. State Bar (1944) 24 Cal.2d 611, 616-618 [150 P.2d 892]
 - judge accepted
 - In the Matter of Jenkins (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 157
- Burglary
 - In re Hurwitz (1976) 17 Cal.3d 562, 567-568 [131 Cal. Rptr. 402, 551 P.2d 1234]
- Charging and accepting exorbitant fee
 - Goldstone v. State Bar (1931) 214 Cal. 490, 496-497 [6 P.2d 513]
- Checks issued with insufficient funds in client trust account
 - Read v. State Bar (1991) 53 Cal.3d 394, modified at 53 Cal.3d 1009A
 - Rhodes v. State Bar (1989) 49 Cal.3d 50 [260 Cal.Rptr. 266]
- Commingling funds
 - Fitzpatrick v. State Bar (1977) 20 Cal.3d 73, 79 [141 Cal.Rptr. 169, 569 P.2d 763]
 - Bernstein v. State Bar (1972) 6 Cal.3d 909, 916-917 [101 Cal.Rptr. 369]
 - Clark v. State Bar (1952) 39 Cal.2d 161, 166, 168 [246 P.2d 1]
 - Pearlin v. State Bar (1941) 18 Cal.2d 682 [117 P.2d 341]
 - Bar Association of San Francisco v. Cantrell (1920) 49 Cal.App. 468, 471-472 [193 P. 598]
 - In the Matter of Doran (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 871
- Concealment of material facts from client
 - Barreiro v. State Bar (1970) 2 Cal.3d 912 [88 Cal.Rptr. 192]
 - Clancy v. State Bar (1969) 71 Cal.2d 140, 148 [77 Cal.Rptr. 657, 454 P.2d 329]
 - In the Matter of Kittrell (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 195
- Confidential settlement disclosed
 - In re Gillis (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 387
- Conspiracy to defraud United States
 - In re Crooks (1990) 51 Cal.3d 1090 [800 P.2d 898]
 - In re Chernik (1989) 49 Cal.3d 467 [261 Cal.Rptr. 595]
- In re Kreitenberg (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 469
- Contributory negligence of client
 - Theobald v. Byers (1961) 193 Cal.App.2d 147 [13 Cal.Rptr. 864]
- Conversion of client trust account funds
 - Bernstein v. State Bar (1972) 6 Cal.3d 909, 917 [101 Cal.Rptr. 369, 495 P.2d 1289]
- Converting estate funds
 - Ridge v. State Bar (1989) 47 Cal.3d 952 [254 Cal.Rptr. 803]
- Conviction
 - conspiracy to distribute cocaine
 - In re Meacham (1988) 47 Cal.3d 510 [253 Cal.Rptr. 572]
 - crimes involving moral turpitude
 - Bercovich v. State Bar (1990) 50 Cal.3d 116 [785 P.2d 889]
 - In re Lesansky (2001) 25 Cal.4th 11 [104 Cal.Rptr.2d 409, 17 P.3d 764]
 - In re Aquino (1989) 49 Cal.3d 1122 [783 P.2d 192]
 - In re Rivas (1989) 49 Cal.3d 794 [781 P.2d 946]
 - In re Chernik (1989) 49 Cal.3d 467 [261 Cal.Rptr. 595]
 - In re Young (1989) 49 Cal.3d 257
 - In re Lamb (1989) 49 Cal.3d 239 [260 Cal.Rptr. 856]
 - Chadwick v. State Bar (1989) 49 Cal.3d 103 [260 Cal.Rptr. 538]
 - In re Meacham (1988) 47 Cal.3d 510 [253 Cal.Rptr. 572]
 - In re Ford (1988) 44 Cal.3d 810 [244 Cal.Rptr. 476]
 - In re Nadrich (1988) 44 Cal.3d 271 [243 Cal.Rptr. 218, 747 P.2d 1146]
 - In re Bloom (1987) 44 Cal.3d 128 [241 Cal.Rptr. 726]
 - In re Chira (1986) 42 Cal.3d 904 [727 P.2d 753]
 - In re Severo (1986) 41 Cal.3d 493 [224 Cal.Rptr. 106]
 - In re Possino (1984) 37 Cal.3d 163 [207 Cal.Rptr. 543, 689 P.2d 115]
 - In re Strick (1983) 34 Cal.3d 891 [238 Cal.Rptr. 397]
 - In re Giddens (1981) 30 Cal.3d 110 [177 Cal.Rptr. 673, 635 P.2d 166]
 - In re Arnoff (1978) 22 Cal.3d 740, 743 [150 Cal. Rptr. 479, 586 P.2d 960]
 - In re Hurwitz (1976) 17 Cal.3d 562 [131 Cal.Rptr. 402, 551 P.2d 1234]
 - In re Duggan (1976) 17 Cal.3d 416 [130 Cal. Rptr. 715, 551 P.2d 19]
 - In re Kreitenberg (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 469
 - In the Matter of Weber (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 942
 - In the Matter of Segal (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 71
 - In the Matter of Distefano (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 668
 - In the Matter of Meza (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 608
 - In the Matter of Deierling (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 552
 - In the Matter of Frascinella (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 543
 - felony convictions
 - Business and Professions Code section 6102(c)
 - In re Utz (1989) 48 Cal.3d 468 [256 Cal.Rptr. 561, 769 P.2d 417]
 - crimes not per se involving moral turpitude
 - In re Strick (1987) 43 Cal.3d 644 [238 Cal.Rptr. 397]
 - In the Matter of Duxbury (Review Dept. 1999) 4 Cal. State Bar Ct. Rptr. 61
 - driving under influence of alcohol, conviction for
 - In re Kelley (1990) 52 Cal.3d 487 [801 P.2d 1126]
 - In re Carr (1988) 46 Cal.3d 1089
 - In the Matter of Respondent I (Review Dept. 1993) 2 Cal. State Bar Ct. Rptr. 260
 - In the Matter of Anderson (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 208

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- In the Matter of Carr (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 108
In the Matter of Anderson (Review Dept. 1990) 1 Cal. State Bar Ct. Rptr. 39
- dismissal or acquittal of criminal charges does not bar disciplinary proceedings covering the same facts
In the Matter of Jenkins (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 157
- for failure to pay federal marijuana transfer tax
In re Higbie (1972) 6 Cal.3d 562, 572-573 [99 Cal.Rptr. 865]
- need not be in California
People v. Davis (1985) 166 Cal.App.3d 760, 764 fn.2 [212 Cal.Rptr. 673]
- Court
duty not to mislead
In the Matter of Chestnut (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 166
- Credit card abuse
In the Matter of Petilla (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 231
- Criminal proceedings
Best v. State Bar (1962) 57 Cal.2d 633, 638 [21 Cal.Rptr. 589, 371 P.2d 325]
- Deceit to State Bar
Borré v. State Bar (1991) 52 Cal.3d 1047
Chang v. State Bar (1989) 49 Cal.3d 114
Warner v. State Bar (1983) 34 Cal.3d 36 [192 Cal.Rptr. 244, 664 P.2d 148]
In the Matter of Mitchell (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 332
- Deception, acts of
Business and Professions Code section 6106
Stanley v. State Bar (1990) 50 Cal.3d 555 [788 P.2d 697]
In re Aquino (1989) 49 Cal.3d 1122
Silva-Vidor v. State Bar (1989) 49 Cal.3d 1071
Slavkin v. State Bar (1989) 49 Cal.3d 894 [264 Cal.Rptr. 131]
Baker v. State Bar (1989) 49 Cal.3d 804
Chang v. State Bar (1989) 49 Cal.3d 114
Chadwick v. State Bar (1989) 49 Cal.3d 103 [260 Cal.Rptr. 538]
Segal v. State Bar (1988) 44 Cal.3d 1077 [245 Cal.Rptr. 404]
Rossman v. State Bar (1985) 39 Cal.3d 539 [216 Cal.Rptr. 919, 703 P.2d 390]
Segretti v. State Bar (1976) 15 Cal.3d 878, 888 [126 Cal.Rptr. 793]
In re Valinoti (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 498
In re Peavey (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 483
In the Matter of Kittrell (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 195
In the Matter of Lais (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 112
In the Matter of Moriarty (Review Dept. 1999) 4 Cal. State Bar Ct. Rptr. 9
In the Matter of Lilly (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 185
In the Matter of Hertz (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 456
Foote v. State Bar (1951) 37 Cal.2d 127, 129 [230 P.2d 617]
Allen v. State Bar (1951) 36 Cal.2d 683, 685-686
Hallinan v. State Bar (1948) 33 Cal.2d 246
CAL 1982-68
no distinction among concealment, half-truth, and false statement of facts
In the Matter of Chestnut (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 166
- Defamation
Hogan v. State Bar (1951) 36 Cal.2d 807, 808
- Defenses, good faith
Call v. State Bar (1955) 45 Cal.2d 104, 110-111 [287 P.2d 761]
- Defined
Chadwick v. State Bar (1989) 49 Cal.3d 103 [260 Cal.Rptr. 538]
In re Lesansky (2001) 25 Cal.4th 11 [104 Cal.Rptr.2d 409, 17 P.3d 764]
In re Mostman (1989) 47 Cal.3d 725 [254 Cal.Rptr. 286]
Gendron v. State Bar (1983) 35 Cal.3d 409
Kitsis v. State Bar (1979) 23 Cal.3d 857, 865-866 [153 Cal.Rptr. 836, 592 P.2d 323]
In re Cadwell (1975) 15 Cal.3d 762, 771, fn. 4 [125 Cal.Rptr. 889, 543 P.2d 257]
In re Fahey (1973) 8 Cal.3d 842, 849 [106 Cal.Rptr. 313, 505 P.2d 1369]
In re Higbie (1972) 6 Cal.3d 562 [99 Cal.Rptr. 865]
Marlowe v. State Bar (1965) 63 Cal.2d 304, 308 [46 Cal.Rptr. 326, 405 P.2d 150]
Noland v. State Bar (1965) 63 Cal.2d 298, 302 [46 Cal.Rptr. 305, 405 P.2d 129]
Arden v. State Bar (1959) 52 Cal.2d 310, 321 [341 P.2d 6]
Call v. State Bar (1955) 45 Cal.2d 104, 109-110 [287 P.2d 761]
Jacobs v. State Bar (1933) 219 Cal. 59, 64 [25 P.2d 401]
In re Gillis (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 387
In the Matter of Priamos (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 824
In the Matter of Myrdall (Review Dept. 1995) 3 Cal. State Bar Ct. Rptr. 363
In the Matter of Anderson (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 208
In the Matter of Frascinella (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 543
Henry H. v. Board of Pension Comrs. (1983) 149 Cal.App.3d 965, 976
In re Kling (1919) 44 Cal.App. 267 [186 P. 152]
In the Matter of Rech (Review Dept. 1995) 3 Cal. State Bar Ct. Rptr. 310
- Defrauding client; defrauding third parties to advance a client's interest
Allen v. State Bar (1977) 20 Cal.3d 172, 174, 177-179
- Defrauding insurance company
In re Petty (1981) 29 Cal.3d 356 [173 Cal.Rptr. 461, 627 P.2d 191]
- Deliberate (willful) violation of attorney's oath and duties
Ainsworth v. State Bar (1988) 46 Cal.3d 1218
Kitsis v. State Bar (1979) 23 Cal.3d 857, 866 [153 Cal.Rptr. 836, 592 P.2d 323]
- Dishonesty
In re Rivas (1989) 49 Cal.3d 794
Chefsky v. State Bar (1984) 36 Cal.3d 116, 120-121, 123 [202 Cal.Rptr. 349]
In the Matter of Dahlz (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 269
In the Matter of Petilla (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 231
In the Matter of Phillips (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 315
In the Matter of Chestnut (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 166
In the Matter of Kittrell (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 195
In the Matter of Johnson (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 179
In the Matter of Wyshak (Review Dept. 1999) 4 Cal. State Bar Ct. Rptr. 70
In the Matter of Moriarty (Review Dept. 1999) 4 Cal. State Bar Ct. Rptr. 9
judge systematically and routinely sold his office and his public trust
In the Matter of Jenkins (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 157

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- prohibited by Business and Professions Code section 6106 whether or not committed while acting as an attorney
In the Matter of Lilly (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 185
- Dishonesty and other untruthful conduct in course of State Bar investigation
Friedman v. State Bar (1990) 50 Cal.3d 235
In re Gillis (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 387
In the Matter of Dahlz (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 269
- Disobedience of client's instructions
Lally v. Kuster (1918) 177 Cal. 783 [171 P. 961]
- Disobedience of court order
Spevak v. Kline (1967) 385 U.S. 511 [87 S.Ct. 625, 17 L.Ed.2d 574]
Cohen v. Hurley (1961) 366 U.S. 117 [81 S.Ct. 954, 6 L.Ed.2d 156]
Weber v. State Bar (1988) 47 Cal.3d 492
Ainsworth v. State Bar (1988) 46 Cal.3d 1218
In re Sadicoff (1929) 208 Cal. 555 [282 P. 952]
In the Matter of Wyshak (Review Dept. 1999) 4 Cal. State Bar Ct. Rptr. 70
even where order void
Maltaman v. State Bar (1987) 43 Cal.3d 924
- Distinguished from breach of oath and duties under Business and Professions Code section 6103
In the Matter of Burckhardt (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 343
- Documents
destruction of
Lady v. State Bar (1946) 28 Cal.2d 497, 501-504 [170 P.2d 460]
omission of material facts
Crane v. State Bar (1981) 30 Cal.3d 117, 121-122 [177 Cal.Rptr. 670, 635 P.2d 163]
*Sullivan v. State Bar (1946) 28 Cal.2d 488, 496 [170 P.2d 888]
- Drawing usurious documents
Bryant v. State Bar (1942) 21 Cal.2d 285 [131 P.2d 523]
- Drug possession
In re Cohen (1974) 11 Cal.3d 416, 421-22 [113 Cal.Rptr. 485, 521 P.2d 477]
In re Possino (1984) 37 Cal.3d 163 [207 Cal.Rptr. 543, 689 P.2d 115]
In the Matter of Deierling (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 552
cocaine trafficking in large quantities prior to bar admission
In the Matter of Passenheim (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 62
conspiracy to distribute marijuana
In re Kreamer (1975) 14 Cal.3d 524 [121 Cal.Rptr. 600, 535 P.2d 728]
conviction of felony narcotics offenses while a judge
In re Scott (1991) 52 Cal.3d 968
distribution of amphetamines
In re Giddens (1981) 30 Cal.3d 110 [177 Cal.Rptr. 673, 635 P.2d 166]
possession of heroin and cocaine with intent to distribute
In re Leardo (1991) 53 Cal.3d 1
possession of LSD prior to ingestion may be a possession conviction
People v. Palaschak (1995) 9 Cal.4th 1236 [40 Cal.Rptr.2d 722]
- Duty owed in favor of third persons
children of client in dissolution
Haldane v. Freedman (1962) 204 Cal.App.2d 475 [22 Cal.Rptr. 445]
- Embezzlement
In re Ford (1988) 44 Cal.3d 810 [244 Cal.Rptr. 476]
Bradpiece v. State Bar (1974) 10 Cal.3d 742, 745 [111 Cal.Rptr. 905, 518 P.2d 337]
- Encouraging action for corrupt motive
In re Scott (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 446
In the Matter of Wyshak (Review Dept. 1999) 4 Cal. State Bar Ct. Rptr. 70
- Extortion
Bluestein v. State Bar (1974) 13 Cal.3d 162, 166-170 [118 Cal.Rptr. 175, 529 P.2d 599]
Arden v. State Bar (1959) 52 Cal.2d 310, 320-321 [341 P.2d 6]
Libarian v. State Bar (1952) 38 Cal.2d 328, 329-330 [239 P.2d 865]
Lindenbaum v. State Bar (1945) 26 Cal.2d 565, 573 [160 P.2d 9]
- Failure to disclose to client interest held in real property sold to same client
Gallagher v. State Bar (1981) 28 Cal.3d 832, 836
- False documents, filing [See Trial Conduct.]
Weir v. State Bar (1979) 23 Cal.3d 564
In the Matter of Johnson (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 179
- False intimations regarding promiscuous sexual conduct do not establish moral turpitude
In the Matter of Torres (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 138
- False or fraudulent statements in banking transactions
In the Matter of Sawyer (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 765
- False pleadings
Penaat v. State Bar (1944) 25 Cal.2d 26, 30 [152 P.2d 442]
- False statements, filing
Weber v. State Bar (1988) 47 Cal.3d 492
Ainsworth v. State Bar (1988) 46 Cal.3d 1218
Phillips v. State Bar (1975) 14 Cal.3d 492, 500 [121 Cal.Rptr. 605, 535 P.2d 733]
Sturr v. State Bar (1959) 52 Cal.2d 125, 133 [338 P.2d 897]
Pickering v. State Bar (1944) 24 Cal.2d 141, 142-144 [148 P.2d 1]
In the Matter of Johnson (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 179
filing false election documents
In re Rivas (1989) 49 Cal.3d 794
- Falsely maligning judge
Matter of Humphrey (1917) 174 Cal. 290 [163 P. 60]
In re Graves (1923) 64 Cal.App. 176 [221 P. 411]
- Fiduciary duties, breach of
T & R Foods, Inc. v. Rose (1996) 47 Cal.App.4th Supp. 1 [56 Cal.Rptr.2d 41]
Ainsworth v. State Bar (1988) 46 Cal.3d 1218
Baranowski v. State Bar (1979) 24 Cal.3d 153, 162 [154 Cal.Rptr. 752, 593 P.2d 613]
Benson v. State Bar (1975) 13 Cal.3d 581, 588-590 [119 Cal.Rptr. 297, 531 P.2d 1081]
Tomlinson v. State Bar (1975) 13 Cal.3d 567, 576 [119 Cal.Rptr. 335, 531 P.2d 1119]
In the Matter of Wyshak (Review Dept. 1999) 4 Cal. State Bar Ct. Rptr. 70
improper solicitation of loan
Beery v. State Bar (1987) 43 Cal.3d 802 [239 Cal.Rptr. 121]
- Filing and execution of self-signed judgments
Woodard v. State Bar (1940) 16 Cal.2d 755 [108 P.2d 407]
filing false election documents
In re Rivas (1989) 49 Cal.3d 794
- Firearm exhibited in a threatening fashion
In the Matter of Frascinella (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 543
- Forgery
In re Paquirigan (2001) 25 Cal.4th 1 [104 Cal.Rptr.2d 402, 17 P.3d 758]
Porter v. State Bar (1990) 52 Cal.3d 518
Aronin v. State Bar (1990) 52 Cal.3d 276
Bambic v. State Bar (1985) 40 Cal.3d 314 [219 Cal.Rptr. 489]

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Weir v. State Bar (1979) 23 Cal.3d 564, 576
Fitzpatrick v. State Bar (1977) 20 Cal.3d 73, 79 [141 Cal.Rptr. 169, 569 P.2d 763]
Montalto v. State Bar (1974) 11 Cal.3d 231 [113 Cal. Rptr. 97, 520 P.2d 721]
+In the Matter of Paguirigan (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 936
In the Matter of Salameh (Review Dept. 1994) 2 Cal. State Bar Ct. Rptr. 729
In the Matter of Brazil (Review Dept. 1994) 2 Cal. State Bar Ct. Rptr. 679
no violation found when successor attorney authorizes an employee to simulate the prior attorney's signature on a settlement draft
In the Matter of Respondent H (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 234

Fraud [See Fraud.]
Hulland v. State Bar (1972) 8 Cal.3d 440 [105 Cal.Rptr. 152]
Monroe v. State Bar (1961) 55 Cal.2d 145 [10 Cal.Rptr. 257, 358 P.2d 529]
Choate v. State Bar (1953) 41 Cal.2d 399 [260 P.2d 609]
Sunderlin v. State Bar (1949) 33 Cal.2d 785 [205 P.2d 382]
Wood v. State Bar (1938) 11 Cal.2d 139 [78 P.2d 429]
Lantz v. State Bar (1931) 212 Cal. 213 [298 P. 497]
Aydelotte v. State Bar (1930) 209 Cal. 737, 740 [290 P. 41]
accepted fees for legal services but failed to perform such services or return the fees
Ridley v. State Bar (1972) 6 Cal.3d 551 [99 Cal.Rptr. 873]
advising the conveyance of property for the purpose of defrauding the creditor of his client
Townsend v. State Bar (1948) 32 Cal.2d 592 [197 P.2d 326]
arranging sham marriages
In re Aguino (1989) 49 Cal.3d 1122
attorney delayed informing client on receipt of payment of judgment, then misappropriated such funds
Himmel v. State Bar (1971) 4 Cal.3d 786 [94 Cal.Rptr. 825]
attorney failed to reveal extent of his pre-existing indebtedness and financial distress to client
Benson v. State Bar (1975) 13 Cal.3d 581 [119 Cal.Rptr. 297]
attorney induced a woman to purchase royalty interest that he should have known had only speculative value
In re Langford (1966) 64 Cal.2d 489 [50 Cal. Rptr. 661, 413 P.2d 437]
business dealings whereby the attorney benefits are closely scrutinized
Marlowe v. State Bar (1965) 63 Cal.2d 304 [46 Cal.Rptr.326, 405 P.2d 150]
characterizations of "moral turpitude, dishonesty, or corruption" must be made with intent to mislead
Wallis v. State Bar (1942) 21 Cal.2d 322 [131 P.2d 531]
civil judgment for fraud and breach of fiduciary duty establishes moral turpitude
In the Matter of Kittrell (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 195
committed forgery, misappropriated funds, and numerous acts of deceit and other dishonest conduct
Tardiff v. State Bar (1971) 3 Cal.3d 903 [92 Cal.Rptr. 301]
concealing adverse and material facts when he obtained the money from his client
Clancy v. State Bar (1969) 71 Cal.2d 140 [77 Cal.Rptr. 657, 454 P.2d 329]
deceiving clients as to the status of their cases, and issuing insufficiently funded checks
Alkow v. State Bar (1971) 3 Cal.3d 924 [92 Cal.Rptr. 278]
defrauded a client and misappropriated her funds
Allen v. State Bar (1977) 20 Cal.3d 172 [141 Cal.Rptr. 808]
deleting language in a statement obtained from the beneficiary of a trust deed on real property
Crane v. State Bar (1981) 30 Cal.3d 117, 121-122 [177 Cal.Rptr. 670, 635 P.2d 163]

endorsing the draft and fabricating a "loan agreement" intending to deceive the bank
McKinney v. State Bar (1964) 62 Cal.2d 194, 196 [41 Cal.Rptr. 665, 397 P.2d 425]
filing false involuntary bankruptcy petitions
Snyder v. State Bar (1976) 18 Cal.3d 286, 291 [133 Cal. Rptr. 864, 555 P.2d 1104]
insider trading
Chadwick v. State Bar (1989) 49 Cal.3d 103 [260 Cal.Rptr. 538]
judge intentionally misstated his address for improper financial benefit
In the Matter of Jenkins (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 157
knowingly tried to take advantage of a relationship of personal trust and confidence
Sodikoff v. State Bar (1975) 14 Cal.3d 422 [121 Cal.Rptr. 467]
loan from client obtained under false pretenses
Slavkin v. State Bar (1989) 49 Cal.3d 894 [264 Cal.Rptr. 131]
misappropriated money received for posting of cash bond and funds delivered for use in settlement negotiations
Fitzpatrick v. State Bar (1977) 20 Cal.3d 73 [141 Cal. Rptr. 169]
misappropriated payment of a judgment that he had won for his clients
Sevin v. State Bar (1973) 8 Cal.3d 641, 646-647 [105 Cal.Rptr. 513, 504 P.2d 449]
misrepresentations made to opposing counsel and the court
LA 482 (1995)
misrepresentation and concealment of adverse and material facts
Krieger v. State Bar (1954) 43 Cal.2d 604, 610 [275 P.2d 459]
misrepresented the status of the contest proceeding and kept clients ignorant of his unauthorized dismissal
Foote v. State Bar (1951) 37 Cal.2d 127 [230 P.2d 617]
obtained a loan from the estate without securing approval of the probate court
Laney v. State Bar (1936) 7 Cal.2d 419, 422 [60 P.2d 845]
petitioner's greater offense was his fraudulent and contrived misrepresentations to the State Bar
Worth v. State Bar (1978) 22 Cal.3d 707, 711 [150 Cal.Rptr. 273]
practiced fraud and deceit on clients and a judge, and engaged in fraud on creditors
In re Wright (1973) 10 Cal.3d 374 [515 P.2d 292]
repeated practices of forgery, fraud, and deceit with clients and the Immigration and Naturalization Service
Weir v. State Bar (1979) 23 Cal.3d 564 [152 Cal.Rptr. 921]
repeatedly misrepresented facts to clients and made statements about their lawsuits which he knew were false
Stephens v. State Bar (1942) 19 Cal.2d 580, 583 [122 P.2d 549]
use of false medical reports in personal injury claims
In re Arnoff (1978) 22 Cal.3d 740, 744 [150 Cal. Rptr. 479, 586 P.2d 960]
using a fictitious name for purpose to defraud and obtain property by false pretense
In re Schwartz (1982) 31 Cal.3d 395 [182 Cal.Rptr. 640, 644 P.2d 833]
In re Kreitenberg (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 469
Furnishing marijuana/controlled substance to minor
In re Fudge (1989) 49 Cal.3d 643
Gifts and favors from litigants and counsel
judge improperly accepted
In the Matter of Jenkins (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 157

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Grand theft

In re Ewaniszyk (1990) 50 Cal.3d 543 [788 P.2d 690]
Bercovich v. State Bar (1990) 50 Cal.3d 116 [785 P.2d 889]
In re Demergian (1989) 48 Cal.3d 284 [256 Cal.Rptr. 392]
In re Vaughn (1985) 38 Cal.3d 614
In re Cannon (1983) 33 Cal.3d 417 [189 Cal.Rptr. 49, 657 P.2d 827]
Ambrose v. State Bar (1982) 31 Cal.3d 184 [181 Cal. Rptr. 903, 643 P.2d 486]
In re Cadwell (1975) 15 Cal.3d 762, 772 [125 Cal. Rptr. 889, 543 P.2d 257]
In re Honoroff (1975) 15 Cal.3d 755, 760 [126 Cal. Rptr. 229, 545 P.2d 597]
In re Urias (1966) 65 Cal.2d 258, 262 [53 Cal. Rptr. 881, 418 P.2d 849]
In the Matter of Brazil (Review Dept. 1994) 2 Cal. State Bar Ct. Rptr. 679

Gross carelessness and negligence [See Professional liability.]
Giovanazzi v. State Bar (1980) 28 Cal.3d 465, 475 [169 Cal.Rptr. 581, 619 P.2d 1005]
Simmons v. State Bar (1970) 2 Cal.3d 719 [87 Cal.Rptr. 368]
Trusty v. State Bar (1940) 16 Cal.2d 550 [107 P.2d 10]
Waterman v. State Bar (1936) 8 Cal.2d 17 [63 P.2d 1135]
In re Gillis (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 387

Gross negligence [See Professional liability.]
Schullman v. State Bar (1976) 16 Cal.3d 631, 633 [128 Cal.Rptr. 671, 547 P.2d 447]
Spindell v. State Bar (1975) 13 Cal.3d 253, 262 [118 Cal.Rptr. 480, 530 P.2d 168]
*Schullman v. State Bar (1973) 10 Cal.3d 526, 528 [111 Cal.Rptr. 161, 516 P.2d 865]
Rock v. State Bar (1962) 57 Cal.2d 639, 642 [21 Cal.Rptr. 572, 371 P.2d 308]
Sullivan v. State Bar (1955) 45 Cal.2d 112, 114 [287 P.2d 778]
Gelberg v. State Bar (1938) 11 Cal.2d 141 [78 P.2d 430]
Marsh v. State Bar (1934) 2 Cal.2d 75 [39 P.2d 403]
In the Matter of Lantz (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 126
In the Matter of Doran (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 871
In the Matter of Hagen (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 153

breach of fiduciary duty

-failure to disburse settlement funds
Black v. State Bar (1972) 7 Cal.3d 676, 692 [103 Cal.Rptr. 288, 499 P.2d 968]
 -failure to give proper accounting
Clark v. State Bar (1952) 39 Cal.2d 161, 174 [246 P.2d 1]
 -misappropriation
Gassman v. State Bar (1976) 18 Cal.3d 125, 130 [132 Cal.Rptr. 675, 553 P.2d 1147]
In re McCarthy (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 364
 -overdrawing client trust account
Lowe v. State Bar (1953) 40 Cal.2d 564, 570 [254 P.2d 506]

failure to file cause of action

Sanchez v. State Bar (1976) 18 Cal.3d 280, 285 [133 Cal.Rptr. 768, 555 P.2d 889]
Grove v. State Bar (1967) 66 Cal.2d 680, 683-685 [58 Cal.Rptr. 564, 427 P.2d 164]
 -in dissolution
Waterman v. State Bar (1936) 8 Cal.2d 17, 20 [63 P.2d 133]
Marsh v. State Bar (1930) 210 Cal. 303, 307 [291 P.2d 583]
 -in will contest
Call v. State Bar (1955) 45 Cal.2d 104, 109-110 [287 P.2d 761]

failure to supervise employees

Gassman v. State Bar (1976) 18 Cal.3d 125, 130 [132 Cal.Rptr. 675, 553 P.2d 1147]
Hu v. Fang (2002) 104 Cal.App.4th 61 [127 Cal.Rptr.2d 756]

-associate attorney

Gadda v. State Bar (1990) 50 Cal.3d 344 [787 P.2d 95]
Moore v. State Bar (1964) 62 Cal.2d 74, 81 [41 Cal.Rptr. 161, 396 P.2d 577]

-bookkeeper

In the Matter of Respondent E (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 716

-office staff

Vaughn v. State Bar (1972) 6 Cal.3d 847, 859 [100 Cal.Rptr. 713]
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-secretary

Sanchez v. State Bar (1976) 18 Cal.3d 280, 282 [133 Cal.Rptr. 768, 555 P.2d 889]

mere ignorance of law is not moral turpitude

Friday v. State Bar (1943) 23 Cal.2d 501 [144 P.2d 564]

neglect of client matters

Gassman v. State Bar (1976) 18 Cal.3d 125, 130 [132 Cal.Rptr. 675, 553 P.2d 1147]
Doyle v. State Bar (1976) 15 Cal.3d 973, 978 [126 Cal.Rptr. 801, 544 P.2d 937]
Moore v. State Bar (1964) 62 Cal.2d 74, 81 [41 Cal.Rptr. 161, 396 P.2d 577]

Gross negligence in overseeing client trust account procedures

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Habitual neglect of client's interests

Walker v. State Bar (1989) 49 Cal.3d 1107
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Pineda v. State Bar (1989) 49 Cal.3d 753
Coombs v. State Bar (1989) 49 Cal.3d 679 [262 Cal.Rptr. 554]
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In re Morales (1983) 35 Cal.3d 1, 9-10
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Martin v. State Bar (1978) 20 Cal.3d 717, 722 [144 Cal.Rptr. 214, 575 P.2d 757]
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Harassment of client

In the Matter of Torres (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 138

Harboring a fugitive

In the Matter of DeMassa (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 737

Honest and reasonable belief, though mistaken, precludes a finding of moral turpitude

In the Matter of Silverton (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 252

Honesty required in the practice of law

In re Gossage (2000) 23 Cal.4th 1080 [99 Cal.Rptr.2d 130]
Borré v. State Bar (1991) 52 Cal.3d 1047
Levin v. State Bar (1989) 47 Cal.3d 1140 [255 Cal.Rptr. 422, 767 P.2d 689]
Segal v. State Bar (1988) 44 Cal.3d 1077 [245 Cal.Rptr. 404]
Hamilton v. State Bar (1979) 23 Cal.3d 868, 876 [153 Cal.Rptr. 602, 591 P.2d 1254]
In the Matter of Chestnut (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 166
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Identity theft

In re Kreitenberg (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 469

Ignoring pro bono clients

Segal v. State Bar (1988) 44 Cal.3d 1077 [245 Cal.Rptr. 404]

Income taxes, failure to file return

In re Grimes (1990) 51 Cal.3d 199 [793 P.2d 61]

In re Fahey (1973) 8 Cal.3d 842, 849-854 [106 Cal.Rptr. 313, 505 P.2d 1369]

Inducing client to withdraw disciplinary complaint

In the Matter of Lais (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 907

Insider trading

Chadwick v. State Bar (1989) 49 Cal.3d 103 [260 Cal.Rptr. 538]

Instructing client to testify falsely concerning fee arrangement

Medoff v. State Bar (1969) 71 Cal.2d 535 [78 Cal.Rptr. 696]

Intentional infliction of emotional distress

In the Matter of Torres (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 138

Intimidation of witness

soliciting intimidation of witness

In re Lee (1988) 47 Cal.3d 471 [253 Cal.Rptr. 570]

Involuntary manslaughter not per se moral turpitude

In re Strick (1987) 43 Cal.3d 644 [238 Cal.Rptr. 397]

Justifies disbarment

In re Possino (1984) 37 Cal.3d 163, 168-169 [207 Cal.Rptr. 543, 689 P.2d 115]

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Knowing and false representations to client

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Propp v. State Bar (1942) 20 Cal.2d 387 125 P.2d 825]

Lying on lease

Marquette v. State Bar (1988) 44 Cal.3d 253 [242 Cal.Rptr. 886, 746 P.2d 1289]

Mail fraud

In re Utz (1989) 48 Cal.3d 468 [256 Cal.Rptr. 561]

In re Schwartz (1982) 31 Cal.3d 395, 399 [182 Cal.Rptr. 640, 644 P.2d 833]

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Manslaughter

In re Alkow (1966) 64 Cal.2d 838 [51 Cal.Rptr. 912, 415 P.2d 800]

Merits severe punishment

Alborton v. State Bar (1984) 37 Cal.3d 1 [206 Cal.Rptr. 373]

Misappropriation of check

Morales v. State Bar (1988) 44 Cal.3d 1037 [245 Cal.Rptr. 398]

Misappropriation of firm funds during breakup of law firm

Morales v. State Bar (1988) 44 Cal.3d 1037 [245 Cal.Rptr. 398]

Misappropriation of funds [See Client trust account, misappropriation.]

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Bercovich v. State Bar (1990) 50 Cal.3d 116 [785 P.2d 889]

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Baker v. State Bar (1989) 49 Cal.3d 804

Pineda v. State Bar (1989) 49 Cal.3d 753

Chang v. State Bar (1989) 49 Cal.3d 114 [260 Cal.Rptr. 280]

In re Basinger (1988) 45 Cal.3d 1348 [249 Cal.Rptr. 110, 756 P.2d 833]

In re Ford (1988) 44 Cal.3d 810 [244 Cal.Rptr. 476]

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In re Mudge (1982) 33 Cal.3d 152 [187 Cal.Rptr. 779, 654 P.2d 1307]

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Athearn v. State Bar (1977) 20 Cal.3d 232, 234 [142 Cal.Rptr. 171, 571 P.2d 628]

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Jackson v. State Bar (1975) 15 Cal.3d 372, 374 [124 Cal.Rptr. 185, 540 P.2d 25]

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Silver v. State Bar (1974) 13 Cal.3d 134, 137 [117 Cal.Rptr. 821, 528 P.2d 1157]

Oliver v. State Bar (1974) 12 Cal.3d 318, 320-321 [115 Cal.Rptr. 639, 525 P.2d 79]

Yokozeki v. State Bar (1974) 11 Cal.3d 436, 441-445 [113 Cal.Rptr. 602, 521 P.2d 858]

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Flaherty v. State Bar (1940) 16 Cal.2d 483 [106 P.2d 617]

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Reznik v. State Bar (1969) 1 Cal.3d 198 [81 Cal.Rptr. 769]

Grove v. State Bar (1965) 63 Cal.2d 312, 315 [46 Cal.Rptr. 513, 405 P.2d 553]

Paonessa v. State Bar (1954) 43 Cal.2d 222, 227 [272 P.2d 510]

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Clark v. State Bar (1952) 39 Cal.2d 161, 174 [246 P.2d 1]
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- failure to disclose facts in soliciting client loan
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- false statement of association with other attorneys
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- Misrepresentation to a CPA who rendered services on a client matter
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- Misrepresentations to client's new attorney
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- Misrepresentations to opposing counsel
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- Misuse of client funds
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- Money laundering scheme
In re Berman (1989) 48 Cal.3d 517 [256 Cal.Rptr. 802]
- Offensive or disrespectful acts [See Trial Conduct.]
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- Prior criminal acquittal; no bar to discipline
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MULTIPLE REPRESENTATION [See Conflict of interest.]

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Associate assigned to client matters may not be blamed for attorney's misconduct

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Attorney neglect not necessarily binding on client

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Delay in handling of client's matter amounts to reckless incompetence

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Extraordinary circumstances beyond client control that merit relief from default judgement

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Failure to file responsive pleadings thereby causing harm to client

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Failure to monitor progress of client's case

Shaffer v. Weber (1991) 233 Cal.App.3d 944

Failure to request trial de novo after adverse arbitration award does not entitle plaintiff to relief on the ground of attorney neglect

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Gross negligence
where client receives practically no representation at all
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Habitual disregard of client interests
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Misleading client deliberately and depriving client of opportunity to take action to preserve rights
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Of party in litigation
advice to, regarding another attorney's neglect of client
LA 14 (1922)
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People v. One Parcel of Land (1991) 235 Cal.App.3d 579
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relief not applicable to plaintiff's actions
Billings v. Health Plan of America (1990) 225 Cal.App.3d 250
Relief under Rule 60(b)(6) warranted by extraordinary circumstances
Community Dental Services v. Tani (2002) 282 F.3d 1164
Representation of a minor client in a dependency proceeding
LA 504 (2000)
Retention of unearned fees and abandonment
Colangelo v. State Bar (1991) 53 Cal.3d 1255 [283 Cal.Rptr. 181]
Matthew v. State Bar (1989) 49 Cal.3d 784, 791 [263 Cal.Rptr. 660]
Stuart v. State Bar (1986) 40 Cal.3d 838 [221 Cal.Rptr. 557]
Smith v. State Bar (1985) 38 Cal.3d 525 [213 Cal.Rptr. 236]
Lester v. State Bar (1976) 17 Cal.3d 547 [131 Cal.Rptr. 225]
Special appearances
specially appearing attorney owes a duty of care to the litigant
Streit v. Covington & Crowe (2000) 82 Cal.App.4th 441 [82 Cal.Rptr.2d 193]

NEGLIGENCE [See Competence. Duties of Attorney. Malpractice. Professional liability. Withdrawal]

OATH OF ATTORNEY [See Duties of attorney.]

Business and Professions Code sections 6067, 6068

Violation of

delay in handling legal matter

Spindel v. State Bar (1975) 13 Cal.3d 253 [118 Cal.Rptr. 480, 530 P.2d 168]

OF COUNSEL

Bonus paid to attorney who is not a partner, associate, or shareholder

LA 470 (1992)

Conflict of interest

Atasi Corp. v. Seagate Technology (1988) 847 F.2d 826

People ex rel. Dept. of Corporations v. Speedee Oil Change Systems (1999) 20 Cal.4th 1135 [86 Cal.Rptr.2d 816]
SF 1985-1

Defined

People ex rel. Dept. of Corporations v. Speedee Oil Change Systems (1999) 20 Cal.4th 1135 [86 Cal.Rptr.2d 816]
CAL 1993-129, CAL 1986-88

LA 421 (1983), LA(I) 1973-3

SF 1985-1, SD 1996-1, SD 1974-23

Division of fee with of counsel

LA 470 (1992)

Foreign attorney as

LA 426 (1984)

Law firm as

out-of-state

CAL 1986-88

to another law firm

CAL 1986-88

On letterhead

Rule 1-400, std. 8, Rules of Professional Conduct

CAL 1993-129, LA 421 (1983)

Out-of-state attorney as

LA 306 (1968), LA(I) 1967-8

conflict of interest

LA 392 (1980)

Partnership as

LA 306 (1968), LA(I) 1973-4, LA(I) 1973-3

Rule 1-400, std. 8, Rules of Professional Conduct

OFFICIALS, CONTACTS WITH [See Judges, communications with.]

Rule 7-108, Rules of Professional Conduct (operative until May 26, 1989)

Rule 5-300, Rules of Professional Conduct (operative as of May 27, 1989)

OPPOSING COUNSEL [See Settlement.]

Advise

of intent to default

SD 1969-3

of own client's entrapment of opposing counsel's client

LA 315 (1970)

of possible malpractice on part of client's former counsel

LA 326 (1972)

Breach of ethics by, not grounds for refusal to recognize as counsel

LA 240 (1957)

Communication with

adverse party represented by counsel

Rule 7-103, Rules of Professional Conduct (operative until May 26, 1989)

Rule 2-100, Rules of Professional Conduct (operative as of May 27, 1989)

general counsel of national corporation when suing subsidiary represented by local counsel

SD 1968-2

Complain about conduct of

LA 339 (1973)

Consent of for preparation of referee's report to court

LA 37 (1927)

Dishonesty to

In the Matter of Dahlz (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 269

Joins partnership during litigation

ORDINANCE VIOLATION

LA(l) 1962-2

Public interest law firm, induce supporters of to withdraw support from

LA 339 (1973)

Refer legal business to

LA(l) 1959-6

ORDINANCE VIOLATION

City counsel member represents in

LA 273 (1962)

SD 1969-1

Partner of council member represents in

SD 1969-1

ORGANIZATION

Membership in

barter association

CAL 1981-60, CAL 1977-44, LA(l) 1965-8

by partnership

LA 324 (1971), SD 1974-11

chamber of commerce

LA 345 (1975), SD 1974-11

real estate board

SD 1973-14

trade association

LA 324 (1971)

OUT-OF-STATE ATTORNEY [See Admission to the Bar.

Unauthorized Practice of Law.]

Appearance as pro hac vice

Rule 983, California Rules of Court

Leis v. Flynt (1979) 439 U.S. 438 [99 S.C. 698, 58 L.Ed.2d 717]

U.S. v. Walters (2002) 309 F.3d 589

Paculan v. George (9th Cir. 2000) 229 F.3d 1226

Judge disbarred in California after disbarment in Michigan

In the Matter of Jenkins (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 157

Out-of-State Attorney Arbitration Counsel Program

California Rules of Court, Rule 983.4

Partnership

law firm name

-inclusion of out-of-state attorney not admitted in California
LA 295 (1966)

OUT-OF-STATE FIRM

Affiliated with California firm

listed on letterhead

LA 392 (1983)

Of counsel

CAL 1986-88

PARTNERSHIP [See Advertising. Associate. Corporation, professional. Fees. Practice of law.]

Corporation Code section 15001, et seq.

Grossman v. Davis (1994) 28 Cal.App.4th 1833 [34 Cal.Rptr.2d 355]

Absent agreement, Uniform Partnership Act applies

Grossman v. Davis (1994) 28 Cal.App.4th 1833 [34 Cal.Rptr.2d 520]

Jewel v. Boxer (1984) 156 Cal.App.3d 171, 174 [203 Cal.Rptr. 13]

Associate

duty to supervise

Moore v. State Bar (1964) 62 Cal.2d 74, 81 [41 Cal.Rptr. 161]

"Association" of, with foreign lawyer of firm

LA 233 (1956), LA 202 (1952)

Bad faith dissolution of law firm

Rosenfeld, Meyer & Susman v. Cohen (1983) 146 Cal.App.3d 200 [194 Cal.Rptr. 180]

Conflict of interest in formation of

LA(l) 1967-11

Deceased partner [See Practice of law, goodwill.]

use of name of

CAL 1986-90, LA 123 (1939)

Defined

CAL 1971-27

Dissolved

Tsakos Shipping and Trading, S.A. v. Juniper Garden Town Homes (1993) 12 Cal.App.4th 74 [15 Cal.Rptr.2d 585]

CAL 1985-86

agreements after partnership

Rule 1-500, Rules of Professional Conduct

Howard v. Babcock (1993) 6 Cal.4th 409 [7 Cal.Rptr.2d 867]

Lyon v. Lyon (1966) 246 Cal.App.2d 519 [54 Cal.Rptr. 829]

CAL 1975-34

allocation of income from unfinished business

*Dickson, Carlson & Campillo v. Pole (2000) 83 Cal.App.4th 436 [99 Cal.Rptr.2d 678]

Grossman v. Davis (1994) 28 Cal.App.4th 1833 [34 Cal.Rptr.2d 355]

Howard v. Babcock (1993) 6 Cal.4th 409 [7 Cal.Rptr.2d 867]

Champion v. Superior Court (1988) 201 Cal.App.3d 777

Fox v. Abrams (1985) 163 Cal.App.3d 610 [210 Cal.Rptr. 260]

Jewel v. Boxer (1984) 156 Cal.App.3d 171 [203 Cal.Rptr. 13]

LA 480

file

-attorney leaving law firm may not remove client file prior to written notification from client

LA 405 (1982)

goodwill

-partner not entitled to

Fraser v. Bogucki (1988) 203 Cal.App.3d 604 [250 Cal.Rptr. 41]

Lyon v. Lyon (1966) 246 Cal.App.2d 519 [54 Cal.Rptr. 829]

handling of practice of

LA(l) 1979-1

Duty to produce records of

Bellis v. United States (1974) 417 U.S. 85 [94 S.Ct. 2179]

Ethics violation complaint against member made against firm
SD 1975-10

Fees

allocation of

-post-dissolution profits from unfinished partnership business

*Dickson, Carlson & Campillo v. Pole (2000) 83 Cal.App.4th 436 [99 Cal.Rptr.2d 678]

-when departing partner takes unfinished cases

Grossman v. Davis (1994) 28 Cal.App.4th 1833 [34 Cal.Rptr.2d 355]

Howard v. Babcock (1993) 6 Cal.4th 409 [7 Cal.Rptr.2d 867]

Champion v. Superior Court (1988) 201 Cal.App.3d 777

File

attorney leaving law firm may not remove client file prior to written notification of client

LA 405 (1982)

Firm name

LA 290 (1965)

out-of-state attorney

-not admitted in California

--included in

LA 295 (1966)

Interstate

LA 325 (1972), LA 230 (1955)

Investment

SD 1984-1

PARTNERSHIP

Lawyer-physician

LA 331 (1973)

Liability

for acts of former partners

Howard v. Babcock (1993) 6 Cal.4th 409 [7 Cal.Rptr.2d 867]

Tsakos Shipping and Trading, S.A. v. Juniper Garden Town Homes (1993) 12 Cal.App.4th 74 [15 Cal.Rptr.2d 585]

Blackmon v. Hale (1970) 1 Cal.3d 548, 556-560

Redman v. Walters (1979) 88 Cal.App.3d 448 [152 Cal.Rptr. 42]

for legal malpractice of partner

Purdy v. Pacific Automobile Ins. Co. (1984) 157 Cal.App.3d 59, 74-75 [203 Cal.Rptr. 524]

Malpractice by

associate's duty to disclose to client

LA 383 (1979)

Name [See Practice, name for.]

LA 310 (1969)

dead lawyer's name in

LA(l) 1962-5

dead partner's name in

LA 265 (1959), LA 248 (1958), LA(l) 1974-15

-used by sole survivor

LA 265 (1959)

former partner

CAL 1986-90

interstate partnership

LA 295 (1966), SF 1975-1, SF 1974-5

Non-existent

held out as real

CAL 1971-27

LA(l) 1959-3

"Of counsel" [See Of counsel.]

Opposing counsel joins

LA(l) 1962-2

Partner defined

LA 385 (1980)

Partner leaves firm

allocation of fees for unfinished cases taken by departing partner

Grossman v. Davis (1994) 28 Cal.App.4th 1833 [34 Cal.Rptr.2d 355]

Howard v. Babcock (1993) 6 Cal.4th 409 [7 Cal.Rptr.2d 867]

Champion v. Superior Court (1988) 201 Cal.App.3d 777

Partner's malpractice

duty to disclose to client

LA 383 (1979)

Payments to estate of deceased partner or associate

Rule 3-102(A)(1), Rules of Professional Conduct (operative until May 26, 1989)

Rule 1-320, Rules of Professional Conduct (operative as of May 27, 1989)

Practices

prosecutor

LA 377 (1978)

when member is

-city attorney

LA 242 (1957), LA(l) 1975-4

-city council member

LA(l) 1975-4

-prosecutor

LA 377 (1978)

Represents

estate

-member-executor

LA 219 (1954)

-member-trustee

LA 219 (1954)

in criminal matter

-when associate is

--prosecutor

Business and Professions Code section 6131

LA 377 (1978)

-when member is

--city attorney

LA 242 (1957), LA(l) 1975-4

--city council member

LA(l) 1975-4

--prosecutor

LA 377 (1978)

own member

LA(l) 1956-8

when associate

-before joining acted for other side

LA 363 (1976)

when member

-before joining acted for other side

LA 269 (1962), LA 252 (1958), LA 246 (1957)

Retirement agreements

Rules 2-109 and 3-102, Rules of Professional Conduct (operative until May 26, 1989)

Rules 1-500 and 1-320, Rules of Professional Conduct (operative as of May 27, 1989)

CAL 1975-34

Retirement plan

may include lay employees

Rule 3-102(A)(3), Rules of Professional Conduct (operative until May 26, 1989)

Rule 1-320, Rules of Professional Conduct (operative as of May 27, 1989)

Separation agreements

Rule 2-109, Rules of Professional Conduct (operative until May 26, 1989)

Rule 1-500, Rules of Professional Conduct (operative as of May 27, 1989)

CAL 1975-34

With a non-lawyer

Rule 3-103, Rules of Professional Conduct (operative until May 26, 1989)

Rule 1-310, Rules of Professional Conduct (operative as of May 27, 1989)

Crawford v. State Bar (1960) 54 Cal.2d 659, 665 [7 Cal.Rptr. 746]

Johnson v. Davidson (1921) 54 Cal.App. 251 [202 P. 159]

In the Matter of Phillips (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 315

In the Matter of Steele (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 708

LA(l) 1966-18

aviation consultants

CAL 1969-18

certified public accountants

LA(l) 1959-5

SD 1974-17

consumer affairs agency

SD 1983-4

financial management company

LA 372 (1978)

in-debt collections

LA 96 (1936)

independent contractor

In the Matter of Bragg (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 615

investment company

SD 1984-1

living trust marketers

CAL 1997-148

management company

LA 488 (1996)

physician

LA 335 (1973)

PARTNERSHIP, BUSINESS

prohibited, if any activities of partnership constitute practice of law

LA 96 (1936)

real estate

SF 1973-23

rule 3-103 extended to cover corporate business arrangement

LA 372 (1978)

shareholder of incorporated legal services entity

LA 444 (1987)

tax shelter investment promoter

SD 1984-1

With non-lawyer, consumer affairs services agency

SD 1983-4

With out-of-state attorney

LA 230 (1955)

SD 1983-4

SF 1974-1

With out-of-state law firm

LA 392 (1981)

SF 1975-1

PARTNERSHIP, BUSINESS

Consumer affairs agency

SF 1983-4

Drafter of agreement for represents one partner against other re termination agreement prepared by other counsel

LA(l) 1963-9

Financial management company

LA 372 (1978)

PAYMENT OF PERSONAL OR BUSINESS EXPENSES [See

Advancement of funds.]

Rule 5-104, Rules of Professional Conduct (operative until May 26, 1989)

Rule 4-210, Rules of Professional Conduct (operative as of May 27, 1989)

Incurred by or for a client

Isrin v. Superior Court (1965) 63 Cal.2d 153, 164 [45 Cal.Rptr. 320, 403 P.2d 728]

PENDING PROCEEDINGS

Book published about

LA 369 (1977)

Ethics committee in Los Angeles will not answer inquiries about

LA(l) 1966-9

PENSION PLAN [See Division of fees.]

PERJURY [See Confidences of the client, disclosure, perjury. Trial conduct.]

CAL 1983-74

PERSONAL INJURY ACTION [See Automobile accident case.]

PHYSICIAN [See Malicious prosecution.]

Client's

duty with respect to fee of

LA 368 (1977), LA 357 (1976)

represent against client over unpaid witness's fee

LA(l) 1931-1

Lawyer duty with respect to medical liens

Cooper v. State Bar (1987) 43 Cal.3d 1016, 1020 [239 Cal.Rptr. 709, 741 P.2d 206]

In the Matter of Respondent H (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 234

LA 478 (1994), LA 368 (1977), LA 357 (1976)

Lawyer-physician

LA 349 (1975), LA 331 (1973), LA(l) 1961-1

Medical liens, attorney duty with respect to

Cooper v. State Bar (1987) 43 Cal.3d 1016, 1020 [239 Cal.Rptr. 709, 741 P.2d 206]

In the Matter of Respondent H (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 234

LA 368 (1977), LA 357 (1976)

common fund doctrine does not apply to contractual medical lien holders in personal injury matters

City and County of San Francisco v. Sweet (1995) 12 Cal.4th 105, 110, 115-117

Lovett v. Carrasco (1998) 63 Cal.App.4th 48 [73 Cal.Rptr.2d 496]

"common fund" or "equal apportionment" doctrine

City and County of San Francisco v. Sweet (1995) 12 Cal.4th 105, 110, 115-117

Lovett v. Carrasco (1998) 63 Cal.App.4th 48 [73 Cal.Rptr.2d 496]

CAL 1995-49(l)

Medical malpractice

Business and Professions Code sections 6146, 6147

Code of Civil Procedure sections 364, 365, 411.30

Opposing party's treating physician

attorney communicating with

CAL 1975-33

SD 1983-9

Partnership with

LA 335 (1973)

Referral of legal business

LA(l) 1949-1

Referral of medical business to

LA 443 (1988)

POLITICAL ACTIVITY [See Letterhead, use for. Public office.]

City council

members receiving contributions to their political campaigns from law firms who are representing clients before the council

Woodland Hills Residents Assn., Inc. v. City Council of the City of Los Angeles (1980) 26 Cal.3d 938 [164 Cal.Rptr. 255]

Judicial office

campaign contributions for

LA(l) 1972-21

candidate

-misrepresentation by

LA(l) 1974-11

-no uniform rules regulating conduct of in California

SF 1974-6

endorse or solicit endorsements for candidate

LA(l) 1972-21

Post-sentencing comment by prosecutor

SD 1974-8

POWER OF ATTORNEY [See Authority of attorney. Withdrawal.]

Annuity gift from estate's attorney to himself is void as outside his power of attorney

Estate of Huston (1997) 51 Cal.App.4th 1721 [60 Cal.Rptr.2d 217]

Assignment of power of attorney to heir hunter's attorney is against public policy

Estate of Wright (2001) 90 Cal.App.4th 228 [108 Cal.Rptr.2d 572]

Does not give non-lawyer the authority to appear in court on behalf of another

Drake v. Superior Court (1994) 21 Cal.App.4th 1826 [26 Cal.Rptr.2d 829]

PRACTICAL TRAINING OF LAW STUDENTS

Rule of Court 983.2

Certification of law students

under State Bar Rules Governing the Practical Training of Law Students

Contact:

Practical Training of Law Students

Office of Certification

State Bar of California

180 Howard Street

San Francisco, California 94105

Telephone: (415) 538-2100

Text is located in:

Deerings Annotated California Codes, Rules of Court, State Bar Rules, and in

West's Annotated California Codes, Court Rules, vol. 23, pt 3

Text available through State Bar's home page:

<http://www.calbar.ca.gov>

Rules Governing the Practical Training of Law Students, The State Bar of California

PRACTICE OF LAW

For the full text of these rules, contact:

Practical Training of Law Students
Office of Certification
State Bar of California
180 Howard Street
San Francisco, California 94105
Telephone: (415) 538-2100

Text available through State Bar's home page:

<http://www.calbar.ca.gov>

Trial advocacy by a certified law student acting under the active supervision of the deputy public defender, pursuant to the rules promulgated by the State Bar

People v. Perez (1979) 24 Cal.3d 133, 142 [155 Cal.Rptr. 176, 594 P.2d 1]

Special Committee on

Contact:

Practical Training of Law Students
Office of Certification
State Bar of California
180 Howard Street
San Francisco, California 94105
Telephone: (415) 538-2175

PRACTICE OF LAW [See Advertising. Foreign attorney. Law corporation. Law office. Legal specialization. Patent law. Professional liability.]

Adherence to beliefs may prove fitness to practice

Hightower v. State Bar (1983) 34 Cal.3d 150 [193 Cal.Rptr. 153, 666 P.2d 10]

Affiliation with out-of-state firm

LA 392 (1983)

Appearance by attorney

in small claims court

LA 105 (1936)

Associate attorney is agent of attorney

Beck v. Wecht (2002) 28 Cal.4th 289 [121 Cal.Rptr.2d 384]

Pollack v. Lytle (1981) 120 Cal.App.3d 931 [175 Cal.Rptr. 81]

Associate changing firms

Dill v. Superior Court (1984) 158 Cal.App.3d 301 [205 Cal.Rptr. 671]

LA 363 (1976)

Associate discovers malpractice of partner

LA 383 (1979)

Associate leaving law firm

CAL 1985-86, LA 405 (1982)

Attorney

Business and Professions Code section 6180.14

placement service

LA 359 (1976)

Barter [See Bid.]

Circulating names of attorneys who fail to extend professional courtesies

LA 364 (1976)

Client assistance to counsel

People v. Matson (1959) 51 Cal.2d 777, 789 [336 P.2d 937]

Clients' business

promotion by letter

-by attorney

--company engaged in bail bonds

LA 91 (1936)

Constitutional right to practice law free from unreasonable government interference

Conn v. Gabbert (1999) 526 U.S. 286 [119 S.Ct. 1292]

Consultation with an independent attorney regarding the client's case may be permitted

SD 1996-1

Corporations

terminated employee/attorney has no right of access to offices, files, corporate records, or employment because of ownership share

Voorhies v. Green (1983) 139 Cal.App.3d 989 [189 Cal.Rptr. 132]

Data processing service

use of by law firm

CAL 1971-25

Defined

In re Glad (9th Cir. 1989) 98 B.R. 976

Birbrower, Montalbano, Condon & Frank v. Superior Court (1998) 17 Cal.4th 119 [70 Cal.Rptr.2d 858]

Farnham v. State Bar (1976) 17 Cal.3d 605

Baron v. City of Los Angeles (1970) 2 Cal.3d 535, 542

People v. Merchants Protective Corp. (1922) 189 Cal. 531, 535

Simons v. Steverson (2001) 88 Cal.App.4th 693 [106 Cal.Rptr.2d 193]

Estate of Condon (1998) 65 Cal.App.4th 1138 [76 Cal.Rptr.2d 922]

76 Ops. Cal. Atty. Gen. 208 (9/17/93; No. 93-416)

OR 94-002, SD 1983-4, SD 1983-7, LA 195

advisory counsel

-pro se defendants given assistance in courtroom without actual conduct of trial

Locks v. Sumner (9th Cir. 1983) 703 F.2d 403, 407

co-counsel attorney may participate in trial with pro se defendant

Locks v. Sumner (9th Cir. 1983) 703 F.2d 403, 407

Delegation of professional responsibility

to non-lawyer

-tax specialist

LA 86 (1935)

Donation of legal services [See Fees.]

Dual occupation/profession [See Commission, fees.]

CAL 1999-154, CAL 1982-69, CAL 1968-13

LA 477, LA 446 (1987), LA 413 (1983), LA 384 (1980), LA 351 (1975)

SD 1992-1, SD 1969-2

85 Ops. Cal. Atty. Gen. 115 (6/7/02; No. 01-1107)

attorney also certified public accountant

Ibanez v. Florida Dept. of Business and Prof.

Regulation, Bd. Of Accountancy (1994) 512 U.S. 136 [114 S.Ct. 2084]

LA 351 (1975), LA 225 (1955)

attorney also concert promoter

Quintilliani v. Mannerino (1998) 62 Cal.App.4th 54 [72 Cal.Rptr.2d 359]

attorney also dentist

SF(I) 1973-7

attorney also legal publisher operating out of attorney's office

LA 446 (1987)

attorney also physician

LA 477

attorney as sports agent

CAL 1968-13

city council member and deputy county counsel

85 Ops. Cal. Atty. Gen. 115 (6/7/02; No. 01-1107)

Collection agency and law practice

Business and Professions Code section 6077.5

Fair Debt Collection Practices Act applies to attorneys regularly engaged in consumer debt-collection

Heintz v. Jenkins (1995) 414 U.S. 291 [115 S.Ct. 1489]

LA 124 (1939)

insurance agency and law practice

SD 1974-18

investment/portfolio manager

CAL 1999-154

management consulting company

-may not form company that acts as attorney's agent in solicitation of business

LA 446 (1987)

motion picture and theatrical agency and law practice

LA 84 (1935)

police officer badge and card while practicing law

-adverse interest

--accepting employment in criminal defense case

LA 94 (1936)

PRACTICE OF LAW

- real estate and law practice
 - CAL 1982-69
 - LA 413 (1983), LA 384 (1980), LA 340 (1973)
 - SD 1992-1, SD 1969-2
 - acceptance of legal business referred from real estate business
 - LA 140 (1942)
- Duty to supervise employees
 - Gadda v. State Bar (1990) 50 Cal.3d 344 [787 P.2d 95]
 - Bernstein v. State Bar (1990) 50 Cal.3d 221 [786 P.2d 95]
 - Palomo v. State Bar (1984) 36 Cal.3d 785
 - Crane v. State Bar (1981) 30 Cal.3d 117, 122 [177 Cal.Rptr. 670]
 - Black v. State Bar (1972) 7 Cal.3d 676, 692 [103 Cal.Rptr. 288]
 - Moore v. State Bar (1964) 62 Cal.2d 74, 81 [41 Cal.Rptr. 161, 396 P.2d 577]
 - In re Complex Asbestos Litigation (1991) 232 Cal. App.3d 572 [283 Cal.Rptr. 732]
 - In the Matter of Kaplan (Review Dept. 1993) 2 Cal. State Bar Ct. Rptr. 509
 - In the Matter of Collins (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 1
 - In the Matter of Whitehead (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 354
 - OR 94-002, CAL 1988-103, LA 488 (1996)
- Employee duties to employer
 - Labor Code section 2650, et seq.
- Fee sharing agreement
 - between departing partner and firm
 - found to violate Rules of Professional Conduct
 - Champion v. Superior Court (1988) 201 Cal.App.3d 777
- Fictitious name, use of
 - by attorney or law firm
 - Jacoby v. State Bar (1977) 19 Cal.3d 359, 366 [138 Cal.Rptr. 77]
 - CAL 1982-66
 - LA 9 (1921)
 - fitness to practice
 - In re Schwartz (1982) 31 Cal.3d 395 [182 Cal.Rptr. 640, 644 P.2d 833]
 - In re Petty (1981) 29 Cal.3d 356 [173 Cal.Rptr. 461, 627 P.2d 191]
 - lawyer/firm to practice under company name
 - LA 26 (1925)
- Fiduciary duty owed by partners of a dissolved partnership to each other
 - duty to complete the partnership's unfinished business and to act in the highest good faith
 - *Dickson, Carlson & Campillo v. Pole (2000) 83 Cal.App.4th 436 [99 Cal.Rptr.2d 678]
- Franchise legal network
 - LA 423 (1983)
- Goodwill of
 - Rule 2-300, Rules of Professional Conduct (operative as of May 27, 1989)
 - defined
 - Business and Professions Code section 14100
 - Geffen v. Moss (1975) 53 Cal.App.3d 215 [125 Cal.Rptr. 687]
 - *In re Marriage of Lopez (1974) 38 Cal.App.3d 93, 108 [113 Cal.Rptr. 58]
 - Lyon v. Lyon (1966) 246 Cal.App.2d 519 [54 Cal.Rptr. 829]
 - Burton v. Burton (1958) 161 Cal.App.2d 572 [326 P.2d 855]
 - dissolution of partnership
 - Howard v. Babcock (1993) 6 Cal.4th 409 [7 Cal.Rptr.2d 867]
 - Fraser v. Bogucki (1988) 203 Cal.App.3d 604 [250 Cal.Rptr. 41]
- Lyon v. Lyon (1966) 246 Cal.App.2d 519, 524 [54 Cal.Rptr. 829]
- CAL 1985-86
- due to death of partner
 - Little v. Caldwell (1894) 101 Cal. 553, 561 [36 P. 107]
 - Heywood v. Sooy (1941) 45 Cal.App.2d 423, 426 [114 P.2d 361]
- partner not entitled to compensation for good will
 - Fraser v. Bogucki (1988) 203 Cal.App.3d 604 [250 Cal.Rptr. 41]
- fill in blanks in forms
 - SD 1983-7
- payments of
 - to heirs of deceased partners
 - Little v. Caldwell (1894) 101 Cal. 553, 561 [36 P. 107]
 - Heywood v. Sooy (1941) 45 Cal.App.2d 423, 426 [114 P.2d 361]
 - CAL 1975-34, SD 1968-5
 - valuation of
 - in divorce or dissolution proceedings
 - In re Marriage of Fonstein (1976) 17 Cal.3d 738 [131 Cal.Rptr. 873]
 - *In re Marriage of Aufmuth (1979) 89 Cal.App.3d 446, 463 [152 Cal.Rptr. 668]
 - *In re Marriage of Lopez (1974) 38 Cal.App.3d 93, 108 [113 Cal.Rptr. 58]
 - Todd v. Todd (1969) 272 Cal.App.2d 786 [78 Cal.Rptr. 131]
- Holding out as attorney
 - Business and Professions Code section 6126
- Holding out as specialist [see Advertising]
 - Rule 1-400(D)(6), Rules of Professional Conduct (operative as of June 1, 1997)
 - Rule 1-400, std. 11, Rules of Professional Conduct (operative as of May 27, 1989)
 - Peel v. Attorney Regulatory and Disciplinary Commission of Illinois (1990) 496 U.S. 91 [110 S.Ct. 2281]
 - Wright v. Williams (1975) 47 Cal.App.3d 802 [121 Cal.Rptr. 194]
- In pro se
 - preservation of constitutional right
 - United States v. Condo (9th Cir. 1984) 741 F.2d 238
- In propria persona client and advisor counsel share handling of case
 - Johnson, York, O'Connor & Caudill v. Board of County Commissioners of the County of Fremont (1994) 868 F.Supp. 1226
 - People v. Bloom (1989) 48 Cal.3d 1194 [259 Cal.Rptr. 669]
 - People v. Bourland (1966) 247 Cal.App.2d 76, 87 [55 Cal.Rptr. 357]
 - LA 483 (1995), LA 432 (1984), LA 502 (1999)
- Interference by government
 - Conn v. Gabbert (1999) 526 U.S. 286 [119 S.Ct. 1292]
- Interference with business relations and contracts
 - Di Loreto v. Shumake (1995) 38 Cal.App.4th 35 [45 Cal.Rptr.2d 22]
 - Dixon v. State Bar (1982) 32 Cal.3d 728 [187 Cal.Rptr. 30, 653 P.2d 321]
 - Rosenfeld, Meyer & Susman v. Cohen (1983) 146 Cal.App.3d 200 [194 Cal.Rptr. 180]
 - elements of
 - Limandri v. Judkins (1997) 52 Cal.App.4th 326 [60 Cal.Rptr.2d 539]
- Interference with prospective business advantage
 - Di Loreto v. Shumake (1995) 38 Cal.App.4th 35 [45 Cal.Rptr.2d 22]
 - Rosenfeld, Meyer and Susman v. Cohen (1983) 146 Cal.App.3d 200 [194 Cal.Rptr. 180]
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Lay person may not represent another
Drake v. Superior Court (1994) 21 Cal.App.4th 1826 [26 Cal.Rptr.2d 829]
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-constitutes practice of law
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-to attorney
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LA 125 (1940)
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Omissions by one member of law firm imputed to others when more than one attorney works on case
Griffis v. Kresge (1984) 150 Cal.App.3d 491, 497 [197 Cal.Rptr. 771]

Partner leaves firm and takes clients with him
allocation of fee
-former firm entitled to quantum meruit
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LA 218 (1953)
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LA 361 (1976)
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*In re Marriage of Kilbourne (1991) 232 Cal.App.3d 1518
Sharing office space with
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People v. Pastrano (1997) 52 Cal.App.4th 610 [60 Cal.Rptr.2d 620]
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-where no office
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LA 105 (1936)
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Rule 1-400, std. 11, Rules of Professional Conduct
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of Illinois (1990) 496 U.S. 91 [110 S.Ct. 2281]
Wright v. Williams (1975) 47 Cal.App.3d 802

Statutory service on attorney and employees

National Advertising Co. v. City of Rohnert Park (1984) 160
Cal.App.3d 614, 618-619

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-to assist in advising client
LA 86 (1935)

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CAL 1982-66, LA 9 (1921)
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*In re Marriage of Kilbourne (1991) 232 Cal.App.3d 1518

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PRIVILEGED COMMUNICATIONS [See Confidences of the client, privilege]

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Attorney cannot use confidences of former client to challenge
client's Chapter 7 discharge of fees owed

In re Rindlisbacher (9th Cir. BAP 1998) 225 B.R. 180 [33
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Condominium associations are holders of attorney-client privilege
and are not required to disclose privileged information to
individual homeowners

Smith v. Laguna Sur Villas Community Association (2000) 79
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Confidential communications between a trustee and the trust's
attorney are privileged and need not be disclosed to trust
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Cal.4th 201 [901 Cal.Rptr.2d 716]

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People v. Pena (1984) 151 Cal.App.3d 462, 480-481 [198
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LA 491 (1997)

Defendant's former attorney allowed to testify as to defendant's
threats against witnesses

U.S. v. Alexander (9th Cir. (Montana) 2002) 287 F.3d 811
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763]

Electronic communication technologies, utilization of

OR 97-002

Exceptions

defendant's former attorney allowed to testify as to
defendant's threats to commit act likely to result in death or
substantial bodily harm

U.S. v. Alexander (9th Cir. (Montana) 2002) 287 F.3d
811

People v. Dang (2001) 93 Cal.App.4th 1293 [113
Cal.Rptr.2d 763]

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Inadvertent disclosure]

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Intervention by non-party holder of privilege is not necessary or
required to assert Evidence Code section 954 privilege

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Litigation privilege extends to demand letters under Civil Code
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Knoell v. Petrovich (1999) 76 Cal.App.4th 164 [90
Cal.Rptr.2d 162]

Litigation privilege is absolute and extends to alleged
misrepresentations by opposing side

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trust beneficiaries

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Reports in public journals of judicial proceedings under Civil
Code section 47(d)

Microsoft Corp. v. Yokohama Telcom Corp. (1998) 993
F.Supp. 782

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60]

PRO BONO

Attorney disciplined for failure to communicate and perform for
pro bono clients

Segal v. State Bar (1988) 44 Cal.3d 1077 [245 Cal.Rptr.
404]

Federal courts authority under a specific statute to require an
unwilling attorney to represent an indigent party

Mallard v. U.S. Dist. Court for the Southern District of Iowa
(1989) 490 U.S. 296 [109 S.Ct. 1814]

Indigent's retention of privately obtained pro bono counsel is
improper basis to deny an independent psychiatric examination
at public expense

In re Conservatorship of Scharles (1991) 233 Cal.App.3d
1334

Partial pro bono fee arrangement did not preclude award of
attorney's fees under C.C.P. § 425.16

Rosenauro v. Scherer (2001) 88 Cal.App.4th 260 [105
Cal.Rptr.2d 674]

Slight mitigating credit for pro bono service which was not great
and was remote in time

In the Matter of Dahlz (Review Dept. 2001) 4 Cal. State Bar
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Slight mitigating credit for pro bono work

In the Matter of Phillips (Review Dept. 2001) 4 Cal. State
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PROBATE [See Estate. Purchasing property at probate,
foreclosure or judicial sale.]

PROFESSIONAL LIABILITY [See Competence. Conflict of
interest. Duties of attorney. Malpractice. Neglect. Negligence.
Trial conduct.]

Hutchinson v. Gertsch (1979) 97 Cal.App.3d 605

Kirtland and Packard v. Superior Court (1976) 59 Cal.App.3d
140 [131 Cal.Rptr. 418]

Absolute privilege in the public's interest

Stanwyck v. Horne (1983) 146 Cal.App.3d 450 [194
Cal.Rptr. 228]

PROFESSIONAL LIABILITY

Accrual of causes of action and limitation in malpractice action against attorneys

Baright v. Willis (1984) 151 Cal.App.3d 303

Krusesky v. Baugh (1982) 138 Cal.App.3d 562 [188 Cal.Rptr. 57]

Action against attorney for

Lockley v. Law Office of Cantrell, Green, Pekich, Cruz & McCort (2001) 91 Cal.App.4th 875 [110 Cal.Rptr.2d 877]

Code of Civil Procedure section 340.6

specially appearing attorney owes a duty of care to the litigant

Streit v. Covington & Crowe (2000) 82 Cal.App.4th 441 [82 Cal.Rptr.2d 193]

Adequacy of motion for summary judgment

Blanch v. Young (1984) 152 Cal.App.3d 1016 [200 Cal.Rptr. 9]

Agreement with client to arbitrate any malpractice claim

CAL 1977-47

Arbitration of claims for

client's agreement

-arbitration clause in attorney-client retainer agreement

Lawrence v. Walzer & Gabrielson (1989) 207 Cal.App.3d 1501 [256 Cal.Rptr. 6]

-as condition to employment

Rule 3-400, Rules of Professional Conduct

CAL 1977-47

Assignability of chose in action for legal malpractice

Goodley v. Wank & Wank, Inc. (1976) 62 Cal.App.3d 389 [133 Cal.Rptr. 83]

legal malpractice claims sounding in tort or contract not assignable

Jackson v. Rogers & Wells (1989) 210 Cal.App.3d 336 [258 Cal.Rptr. 454]

Attorney's dissemination of information produced by adverse party and covered by protective order does not constitute tort

Westinghouse Electric Corp. v. Newman (1995) 39 Cal.App.4th 370 [46 Cal.Rptr.2d 151]

Attorney's failure to raise inapplicable argument

Crookall v. Davis, Punelli, Keathley & Willard (1998) 65 Cal.App.4th 1048 [77 Cal.Rptr.2d 250]

Attorney General

deputy attorney general immune from liability to person wrongfully accused following grand jury investigation

Harmston v. Kirk (1989) 216 Cal.App.3d 1410

Attorney-client relationship

consultation

-prima facie evidence of existence of

People v. Thoi (1989) 213 Cal.App.3d 689 [261 Cal.Rptr. 789]

Miller v. Metzinger (1979) 91 Cal.App.3d 31 [154 Cal.Rptr. 22]

specially appearing attorney forms an attorney-client relationship with the litigant

Streit v. Covington & Crowe (2000) 82 Cal.App.4th 441 [82 Cal.Rptr.2d 193]

Bankruptcy proceeding

standard of care

Enriquez v. Smith (1985) 173 Cal.App.3d 691 [219 Cal.Rptr. 267]

Breach of fiduciary duty

requirements to state a cause of action

New Plumbing Contractors, Inc. v. Edwards, Sooy & Byron (2002) 99 Cal.App.4th 799 [121 Cal.Rptr.2d 472]

Pierce v. Lyman (1991) 1 Cal.App.4th 1093

violation of rules of professional conduct may be admitted as evidence of fiduciary breach

Mirabito v. Liccardo (1992) 4 Cal.App.4th 41

Burden of proof

attorney charged with spoliation of evidence has burden of showing that his negligence did not result in loss of meritorious case

Galanek v. Wismar (1999) 68 Cal.App.4th 1417 [81 Cal.Rptr.2d 236]

plaintiff failed to prove that any judgment she might have obtained in her "case within a case" would have been collectible

Garretson v. Harold I. Miller (2002) 99 Cal.App.4th 563 [121 Cal.Rptr.2d 317]

Co-counsel not liable for other counsel's fees due to his own malpractice which reduced or eliminated fees of other counsel

Beck v. Wecht (2002) 28 Cal.4th 289 [121 Cal.Rptr.2d 384]

Co-counsel's duty to report counsel's

LA 313 (1969)

Conspiracy to violate legal ethics

Westamco Investment Co. v. Lee (1999) 69 Cal.App.4th 481 [81 Cal.Rptr.2d 634]

Conspiracy under Civil Code section 1714.10

Pavicich v. Santucci (2000) 85 Cal.App.4th 382 [102 Cal.Rptr.2d 125]

Evans v. Pillsbury, Madison & Sutro (1998) 65 Cal.App.4th 599 [76 Cal.Rptr.2d 679]

Continued representation of clients regarding the specific subject matter in which alleged wrongful act or omission occurred

Gurkewitz v. Haberman (1982) 137 Cal.App.3d 328 [187 Cal.Rptr. 14]

Continuous representation tolls statutes

Von Rott v. Johnson (1983) 148 Cal.App.3d 608 [196 Cal.Rptr. 55]

Contributory negligence of client

Theobald v. Byers (1961) 193 Cal.App.2d 147 [13 Cal.Rptr. 864]

Corporate counsel retained by corporation to defend against litigation was not agent of corporation for purposes of Corporations Code section 317

Channel Lumber Co. Inc. v. Simon (2000) 78 Cal.App.4th 1222 [93 Cal.Rptr.2d 482]

Counsel who may benefit from malpractice action informs party who may have such action against her counsel

LA 326 (1972)

Criminal defendant must prove actual innocence in action for

Wiley v. County of San Diego (1998) 19 Cal.4th 532 [79 Cal.Rptr.2d 672]

Lynch v. Warwick (2002) 95 Cal.App.4th 267 [115 Cal.Rptr.2d 391]

Damages

Smith v. Lewis (1975) 13 Cal.3d 349, 361 [118 Cal.Rptr. 621]

Marshak v. Ballesteros (1999) 72 Cal.App.4th 1514 [86 Cal.Rptr.2d 1]

Bernard v. Walkup (1969) 272 Cal.App.2d 595 [77 Cal.Rptr. 544]

Campbell v. Magana (1960) 184 Cal.App.2d 751 [8 Cal.Rptr. 32]

Pete v. Henderson (1954) 124 Cal.App.2d 487 [269 Cal.Rptr. 78]

Disclose information in action by client against co-counsel

LA 254 (1958)

Duty of attorney

advise client of potential liability from promulgating a false or misleading offering to investors

Federal Deposit Insurance Corporation v. O'Melveny & Myers (9th Cir. 1992) 969 F.2d 44

advise client of prior attorney's malpractice

-no duty found

LA 390 (1981)

no duty to disclose to client that law firm had hired law clerk of judge before whom law firm was appearing in pending matter because the alleged harm lacked foreseeability

First Interstate Bank of Arizona v. Murphy, Weir & Butler (9th Cir. 2000) 210 F.3d 983

report to the State Bar

Business and Professions Code sections 6068(o)(1),(2), 6086.8

settlement

-cannot prohibit the filing of State Bar complaint

Rule 1-500(B), Rules of Prof. Conduct

PROFESSIONAL LIABILITY

- Business and Professions Code section 6090.5
-no duty to exonerate clients from fault in public eye
-no liability to counsel
Zalta v. Billips (1978) 81 Cal.App.3d 183 [144 Cal.Rptr. 888]
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Streit v. Covington & Crowe (2000) 82 Cal.App.4th 441 [82 Cal.Rptr.2d 193]
Duty owed in favor of third persons
Meighan v. Shore (1995) 34 Cal.App.4th 1025
Burgerv. Pond (1990) 224 Cal.App.3d 597 [273 Cal.Rptr. 709]
Purdy v. Pacific Automobile Ins. Co. (1984) 157 Cal.App.3d 59, 76 [203 Cal.Rptr. 524]
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-no duty allowed
Silberg v. Anderson (1988) 203 Cal.App.3d 29, mod. 204 Cal.App.3d 150A [249 Cal.Rptr. 697]
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assumption of fiduciary duty as "escrow holder" for adverse party
Wasmann v. Seidenberg (1988) 202 Cal.App.3d 752 [248 Cal.Rptr. 744]
attorney advising client is liable to third party when reasonably foreseeable that advice will be transmitted to and relied upon by third party
Pavich v. Santucci (2000) 85 Cal.App.4th 382 [102 Cal.Rptr.2d 125]
Home Budget Loan v. Jacoby & Meyers Law Offices (1989) 207 Cal.App.3d 1277 [255 Cal.Rptr. 483]
attorney employer
-client of
Donald v. Garry (1971) 19 Cal.App.3d 769 [97 Cal.Rptr. 191]
-disclosure that counsel represented only executor-trustee
Morales v. Field, DeGoff, Huppert & MacGowan (1979) 99 Cal.App.3d 307 [160 Cal.Rptr. 239]
-liability to intended beneficiaries of amended trust resulting from attorney's failure to deliver amendment to trustee prior to death of settlor
Lombardo v. Huysentruyt (2001) 91 Cal.App.4th 656 [110 Cal.Rptr.2d 691]
children of client in dissolution
Haldane v. Freedman (1962) 204 Cal.App.2d 475 [22 Cal.Rptr. 445]
children of criminal client
-attorney's duty to client does not sustain damages for emotional distress suffered by client's children
Holliday v. Jones (1989) 214 Cal.App.3d 465 mod. (1989) 215 Cal.App.3d 102
escrow agents
-generally, no duty
St. Paul Title Co. v. Meier (1986) 181 Cal.App.3d 948 [226 Cal.Rptr. 538]
first attorney who was to receive a percentage of fee of second attorney
Mason v. Levy & Van Bourg (1978) 77 Cal.App.3d 60 [143 Cal.Rptr. 389]
insurer's attorney has duty to include insured's independent counsel in settlement negotiations and to fully exchange information
Novak v. Low, Ball & Lynch (1999) 77 Cal.App.4th 278 [91 Cal.Rptr.2d 453]
investors in client's securities offering
Federal Deposit Insurance Company v. O'Melveny & Myers (9th Cir. 1992) 969 F.2d 44
lienholder
Johnstone v. State Bar (1966) 64 Cal.2d 153, 155-56 [49 Cal.Rptr. 97, 410 P.2d 617]
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Roberts v. Ball, Hunt, Hart, Brown & Baerwitz (1976) 57 Cal.App.3d 104 [128 Cal.Rptr. 901]
non-client
Sodikoff v. State Bar (1975) 14 Cal.3d 422 [121 Cal.Rptr. 467, 535 P.2d 331]
Fox v. Pollack (1986) 181 Cal.App. 954 [226 Cal.Rptr. 532]
patient of attorney's psychologist client
Schick v. Bach et al (1987) 193 Cal.App.3d 1321 [238 Cal.Rptr. 902]
potential creditors of client
U.S. v. Limbs (9th Cir. 1975) 524 F.2d 799
Johnstone v. State Bar (1986) 64 Cal.2d 153 [49 Cal.Rptr. 97, 410 P.2d 617]
Roberts v. Ball, Hunt, Brown & Baerwitz (1976) 57 Cal.App.3d 104 [128 Cal.Rptr. 901]
Brian v. Christensen (1973) 35 Cal.App.3d 377 [110 Cal.Rptr. 688]
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prospective defendants
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Heliotis v. Schuman (1986) 181 Cal.App.3d 646 [226 Cal.Rptr. 509]
purchasers of client's stock
Goodman v. Kennedy (1976) 18 Cal.3d 335 [134 Cal.Rptr. 375, 556 P.2d 737]
spouse of client who was to receive portion of proceeds of
In re Marriage of Wagoner (1986) 176 Cal.App.3d 936 [222 Cal.Rptr. 479]
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Wasmann v. Seidenberg (1988) 202 Cal.App.3d 752 [248 Cal.Rptr. 744]
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Heyer v. Flaig (1969) 70 Cal.2d 223 [74 Cal.Rptr. 225]
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Garcia v. Borelli (1982) 129 Cal.App.3d 24 [180 Cal.Rptr. 768]
Ventura County Humane Society v. Holloway (1974) 40 Cal.App.3d 897 [115 Cal.Rptr. 464]
Hiemstra v. Huston (1970) 12 Cal.App.3d 1043 [91 Cal.Rptr. 269]
trust beneficiaries
Pierce v. Lyman (1991) 1 Cal.App.4th 1093
Duty owed to insured by attorney retained by insurer
Lysick v. Walcom (1968) 258 Cal.App.2d 136, 151 [65 Cal.Rptr. 406]
Duty owed to insurer by attorney retained by insurer
insurer's attorney has duty to include insured's independent counsel in settlement negotiations and to fully exchange information
Novak v. Low, Ball & Lynch (1999) 77 Cal.App.4th 278 [91 Cal.Rptr.2d 453]
Duty to refer client to a "specialist"
Horne v. Peckham (1979) 97 Cal.App.3d 404, 414 [158 Cal.Rptr. 714]
no duty to consult medical specialist unless such consultations recommended by other doctors
Bolton v. Trope (1999) 75 Cal.App.4th 1021 [89 Cal.Rptr.2d 637]
Effect of violation of the Rules of Professional Conduct
David Welch Company v. Erskine and Tully (1988) 203 Cal.App.3d 884 [250 Cal.Rptr. 339]
Elements of cause of action

PROFESSIONAL LIABILITY

- Harris v. Smith (1984) 157 Cal.App.3d 100, 104-105 [203 Cal.Rptr. 541]
- Emotional distress damages may be recoverable as part of a legal malpractice claim
LA 489 (1997)
- Error
in preparing findings in support of judgment in favor of client
Armstrong v. Adams (1929) 102 Cal.App. 677 [283 P. 871]
- Existence of attorney-client relationship
Perkins v. West Coast Lumber Co. (1900) 129 Cal. 427 [62 P. 57]
Miller v. Metzinger (1979) 91 Cal.App.3d 31, 39 [154 Cal.Rptr. 22]
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specially appearing attorney forms an attorney-client relationship with the litigant
Streit v. Covington & Crowe (2000) 82 Cal.App.4th 441 [82 Cal.Rptr.2d 193]
- Exonerating personal liability
Rule 6-102, Rules of Professional Conduct (operative until May 26, 1989)
Rule 3-400, Rules of Professional Conduct (operative as of May 27, 1989)
LA 489 (1997)
- Failure to advise client of correct value of marital estate
Marshak v. Ballesteros (1999) 72 Cal.App.4th 1514 [86 Cal.Rptr.2d 1]
- Failure to advise client of spouse's community property
Gorman v. Gorman (1979) 90 Cal.App.3d 454 [153 Cal.Rptr. 479]
- Failure to advise client to act promptly in retaining other counsel due to statute of limitations
Miller v. Metzinger (1979) 91 Cal.App.3d 31, 41 [154 Cal.Rptr. 22]
- Failure to arrange for service of summons
Neel v. Magana, Olney, Levy, Cathcart & Gelfand (1971) 6 Cal.3d 176 [98 Cal.Rptr. 837, 491 P.2d 589]
- Failure to assert interest of wife in retirement benefits of husband in dissolution proceedings
*Smith v. Lewis (1975) 13 Cal.3d 349 [118 Cal.Rptr. 621, 530 P.2d 589]
- Failure to clarify terms of settlement agreement with media
Zalta v. Billips (1978) 81 Cal.App.3d 183 [144 Cal.Rptr. 888]
- Failure to consult medical specialist where such consultation was not recommended by other medical specialists
Bolton v. Trope (1999) 75 Cal.App.4th 1021 [89 Cal.Rptr.2d 637]
- Failure to file complaint in timely fashion
Bay Cities Paving & Grading, Inc. v. Lawyer's Mutual Insurance Co. (1991) 233 Cal.App.3d 1184
Quezada v. Hart (1977) 67 Cal.App.3d 754 [136 Cal.Rptr. 815]
Bernard v. Walkup (1969) 272 Cal.App.2d 595 [77 Cal.Rptr. 544]
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- Failure to file cross-complaint
Banerian v. O'Malley (1974) 42 Cal.App.3d 604 [116 Cal.Rptr. 919]
- Failure to file petition for change in client disability rating
Sprague v. Morgan (1960) 185 Cal.App.2d 519 [8 Cal.Rptr. 347]
- Failure to file petition for discharge in bankruptcy
Feldesman v. McGovern (1941) 44 Cal.App.2d 566 [112 P.2d 645]
- Failure to file responsive pleadings
County of San Diego v. Magri (1984) 156 Cal.App.3d 641 [203 Cal.Rptr. 52]
- Failure to file timely notice of a motion for a new trial
Tuck v. Thuesen (1970) 10 Cal.App.3d 193 [88 Cal.Rptr. 759]
- Failure to include husband's assets as community property
Raudebaugh v. Young (1978) 87 Cal.App.3d 364 [150 Cal.Rptr. 848]
- Failure to obtain trial setting preference for aged client
Granquist v. Sandberg (1990) 219 Cal.App.3d 181 [268 Cal.Rptr. 109]
- Failure to offer evidence to court about which attorney had serious doubts
Horo v. Lawton (1960) 787 Cal.App.2d 657 [10 Cal.Rptr. 98]
Failure to prepare a valid "Clifford Trust"
Horne v. Peckham (1979) 97 Cal.App.3d 404 [158 Cal.Rptr. 714]
- Failure to prepare or cause entry of judgment or verdict
Chavez v. Carter (1967) 256 Cal.App.2d 577 [64 Cal.Rptr. 350]
- Failure to properly draft stipulation, order and judgment in divorce action
McGee v. Weinberg (1979) 97 Cal.App.3d 798 [159 Cal.Rptr. 86]
- Failure to raise a defense of anti-deficiency statute
Crookall v. Davis, Punelli, Keathley & Willard (1998) 65 Cal.App.4th 1048 [77 Cal.Rptr.2d 250]
- Failure to raise available defenses in a criminal prosecution
Martin v. Hall (1971) 20 Cal.App.3d 414 [97 Cal.Rptr. 730]
- Failure to research law
Torbitt v. Fearn (1984) 161 Cal.App.3d 860, 864-865 [208 Cal.Rptr. 1]
- Failure to serve summons and complaint
Troche v. Daley (1990) 217 Cal.App.3d 403
Kane, Kane & Kritzer, Inc. v. Altagen (1980) 107 Cal.App.3d 36 [165 Cal.Rptr. 534]
- First attorney prohibited from cross-complaining for indemnity against the successor attorney
Holland v. Thacher (1988) 199 Cal.App.3d 924, 929
First attorney cross-complaint for indemnity against former associate/successor attorney based on fraud proper
Williams v. Drexler (1988) 206 Cal.App.3d 373
- Fraudulent scheme
attorney providing services to client not liable under racketeering law
Baumer v. Pachi (1993) 8 F.3d 1341
- Immunity
attorney accused of conspiracy with a judge not entitled to federal law immunity
Kimes v. Stone (9th Cir. 1996) 84 F.3d 1121
- Indemnification of attorneys who represented same client on same matter
Gibson, Dunn & Crutcher v. Superior Court (1979) 94 Cal.App.3d 347 [156 Cal.Rptr. 326]
- Invited error of defendant
Kessler v. Gray (1977) 77 Cal.App.3d 284 [143 Cal.Rptr. 496]
- Jurisdiction
California courts non-disciplinary jurisdiction over non-resident California attorney
Crea v. Busby (1996) 48 Cal.App.4th 509 [55 Cal.Rptr.2d 513]
Edmunds v. Superior Court (1994) 24 Cal.App.4th 221
- Liability of court appointed counsel to federal criminal defendant for negligence
Fern v. Ackerman (1979) 444 U.S. 193 [62 L.Ed.2d 355; 100 S.Ct. 402]
- Liability of law firm
for malicious prosecution based on acts of principal
Gerard v. Ross (1988) 204 Cal.App.3d 968
not liable to insured when insurer, under consent clause of policy, was entitled to settle without consulting insured
New Plumbing Contractors, Inc. v. Edwards, Sooy & Byron (2002) 99 Cal.App.4th 799 [121 Cal.Rptr.2d 472]
- Liability of partner for attorney negligence
Blackmon v. Hale (1970) 1 Cal.3d 548 [83 Cal.Rptr. 194]
for acts of other partners after leaving law firm
Commercial Standard Title Co. v. Superior Court (1979) 92 Cal.App.3d 934 [155 Cal.Rptr. 393]

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- Redman v. Walters (1979) 88 Cal.App.3d 448 [152 Cal.Rptr. 42]
Held v. Arant (1977) 67 Cal.App.3d 748 [134 Cal.Rptr. 422]
- Liability of subsequent tortfeasors
Goldfisher v. Superior Court (1982) 133 Cal.App.3d 12 [183 Cal.Rptr. 609]
Pollack v. Lytle (1981) 120 Cal.App.3d 931 [175 Cal.Rptr. 81]
Parker v. Morton (1981) 117 Cal.App.3d 751 [173 Cal.Rptr. 197]
Rowell v. TransPacific Life Insurance Company (1979) 94 Cal.App.3d 818 [156 Cal.Rptr. 679]
Gibson, Dunn & Crutcher v. Superior Court (1979) 94 Cal.App.3d 347 [156 Cal.Rptr. 326]
- Limiting liability to client
agreement to waive a conflict of interest
CAL 1989-115
assistance to an in propria persona litigant in preparing pleading or negotiating settlement
LA 502 (1999)
attorney declares bankruptcy
-judgment may be non-dischargeable
In re Keller (9th Cir. 1989) 106 B.R. 639
for personal professional liability
Rule 6-102, Rules of Professional Conduct (operative until May 26, 1989)
Rule 3-400, Rules of Professional Conduct (operative as of May 27, 1989)
LA 489 (1997)
limited liability partnership
LA 489 (1997)
- Malpractice
acts constituting
Lombardo v. Huysentruyt (2001) 91 Cal.App.4th 656 [110 Cal.Rptr.2d 691]
Enriquez v. Smyth (1985) 173 Cal.App.3d 691 [219 Cal.Rptr. 267]
Purdy v. Pacific Automobile Ins. Co. (1984) 157 Cal.App.3d 59, 74-76 [203 Cal.Rptr. 524]
Davis v. Damrell (1981) 119 Cal.App.3d 883 [174 Cal.Rptr. 257]
award of attorney's fees
Loube v. Loube (1998) 64 Cal.App.4th 421 [74 Cal.Rptr.2d 906]
duty to advise client of prior attorney's malpractice
LA 390 (1981)
expert witness's testimony admissible even though the attorney-expert possessed only related experience and not specific expertise
Jeffer, Mangels & Butler v. Glickman (1991) 234 Cal.App.3d 1432
insurance company
American Home Assurance Co. v. Miller (9th Cir. 1983) 717 F.2d 1310
Gulf Insurance Co. v. Berger, Kahn et al. (2000) 79 Cal.App.4th 114 [93 Cal.Rptr.2d 534]
American Casualty Co. v. O'Flaherty (1997) 57 Cal.App.4th 1070 [67 Cal.Rptr.2d 539]
Unigard Ins. Group v. O'Flaherty & Belgum (1995) 38 Cal.App.4th 1229 [45 Cal.Rptr.2d 565]
liability of firm for legal malpractice of partner
Purdy v. Pacific Automobile Ins. Co. (1984) 157 Cal.App.3d 59, 74-75 [203 Cal.Rptr. 524]
no duty to agent of client who participated with attorney in the negotiation of a contract on behalf of their client
Major Clients Agency v. Diemer (1998) 67 Cal.App.4th 1116 [79 Cal.Rptr.2d 613]
no duty to consult medical specialist unless such consultations recommended by other doctors
Bolton v. Trope (1999) 75 Cal.App.4th 1021 [89 Cal.Rptr.2d 637]
professional malpractice distinguished from negligence
Bellamy v. Superior Court (1996) 45 Cal.App.4th 565 [57 Cal.Rptr.2d 894]
punitive damages in underlying case recoverable as compensatory damages in malpractice suit against negligent law firm
Merenda v. Superior Court (1991) 234 Cal.App.3d 1294
settlement of claims for
-breach of contract action available if settlement agreement cannot be enforced under CCP § 664.6
Harris v. Rudin, Richman & Appel (1999) 74 Cal.App.4th 299 [97 Cal.Rptr.2d 822]
specially appearing attorney owes a duty of care to the litigant
Streit v. Covington & Crowe (2000) 82 Cal.App.4th 441 [82 Cal.Rptr.2d 193]
statute of limitations does not begin to run until client suffers actual harm
Leasequip, Inc. v. Dapeer (2002) 103 Cal.App.4th 394 [126 Cal.Rptr.2d 782]
Village Nurseries, L.P. v. Greenbaum (2002) 101 Cal.App.4th 26 [123 Cal.Rptr.2d 555]
Johnson v. Haberman & Kassoy (1988) 201 Cal.App.3d 1468 [247 Cal.Rptr. 614]
Robinson v. McGuinn (1987) 195 Cal.App.3d 66
-defendant bears burden of proving when plaintiff discovered or should have discovered alleged malpractice
Samuels v. Mix (2000) 22 Cal.4th 1 [91 Cal.Rptr.2d 273]
Village Nurseries, L.P. v. Greenbaum (2002) 101 Cal.App.4th 26 [123 Cal.Rptr.2d 555]
-doctrine of "equitable tolling" applies to legal malpractice limitation period
Afrozmeher v. Asherson (1988) 201 Cal.App.3d 704 [847 Cal.Rptr. 296]
trustee of "sham" corporation has standing to sue corporate attorneys for legal malpractice
Loyd v. Paine Webber, Inc. (9th Cir. 2000) 208 F.3d 755
Mere breach of professional duty causing harm not yet realized does not create cause of action for malpractice
UMET Trust v. Santa Monica (1983) 140 Cal.App.3d 864, 874 [189 Cal.Rptr. 922]
Necessity for expert testimony
Goebel v. Luaderdale (1989) 214 Cal.App.3d 1502
Lipscomb v. Krause (1978) 87 Cal.App.3d 970 [151 Cal.Rptr. 465]
Starr v. Mooslin (1971) 14 Cal.App.3d 988, 994 [92 Cal.Rptr. 583]
Floro v. Lawton (1960) 187 Cal.App.2d 657, 674 [10 Cal.Rptr. 98]
Necessity for proof of actual damages
Kirtland & Packard v. Superior Court (1976) 59 Cal.App.3d 140 [131 Cal.Rptr. 418]
Negligence
attorney's breach of duty as escrow holder deemed actionable for negligence
Wasmann v. Seidenberg (1988) 202 Cal.App.3d 752 [248 Cal.Rptr. 744]
client damages
-cross-complaint against plaintiff's attorney
Rowell v. Transpacific Life Insurance Co. (1979) 94 Cal.App.3d 818 [156 Cal.Rptr. 679]
Gibson, Dunn & Crutcher v. Superior Court (1979) 94 Cal.App.3d 347 [156 Cal.Rptr. 326]
inadequate investigation of medical malpractice claim
-no cause of action against attorney by physician
Weaver v. Superior Court (1979) 95 Cal.App.3d 166 [156 Cal.Rptr. 745]
infliction of emotional distress
Edwards v. Chain, Younger, et al. (1987) 191 Cal.App.3d 515 [236 Cal.Rptr. 465]
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Roberts v. Ball, Hunt, Hart, Brown & Baerwitz (1976) 57 Cal.App.3d 104 [128 Cal.Rptr. 901]

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- specially appearing attorney owes a duty of care to the litigant
 Streit v. Covington & Crowe (2000) 82 Cal.App.4th 441 [82 Cal.Rptr.2d 193]
- third-party non-clients
 Burger v. Pond (1990) 224 Cal.App.3d 597 [273 Cal.Rptr. 709]
- No duty to consult medical specialist unless such consultations recommended by other doctors
 Bolton v. Trope (1999) 75 Cal.App.4th 1021 [89 Cal.Rptr.2d 637]
- Obligation of insurance company to represent attorney against malpractice claim
 American Home Assurance Co. v. Miller (9th Cir. 1983) 717 F.2d 1310
- Offering incorrect advice to client
 Leasequip, Inc. v. Dapeer (2002) 103 Cal.App.4th 394 [126 Cal.Rptr.2d 782]
 Marshak v. Ballesteros (1999) 72 Cal.App.4th 1514 [86 Cal.Rptr.2d 1]
 Eckert v. Schaal (1967) 251 Cal.App.2d 1 [58 Cal.Rptr. 817]
 Moser v. Western Harness Racing Assn. (1948) 89 Cal.App.2d 1 [200 P.2d 7]
 McGregor v. Wright (1931) 117 Cal.App. 186 [3 P.2d 624]
- Personal
 Oren Royal Oaks Venture v. Stanman (1984) 160 Cal.App.3d 879
- Predecessor attorney/malpractice defendant may not cross-complain for equitable indemnity against successor attorney
 Holland v. Thacher (1988) 199 Cal.App.3d 924, 929
- Privilege of judicial proceedings
 *Oren Royal Oaks Venture v. Stanman (1984) 160 Cal.App.3d 879, 883-890 [207 Cal.Rptr. 33]
- Proceedings of State Bar against member of bar
 Stanwyck v. Horne (1983) 146 Cal.App.3d 450 [194 Cal.Rptr. 228]
- liability for
 Business and Professions Code section 6180.11
- Proximate cause
 Novak v. Low, Ball & Lynch (1999) 77 Cal.App.4th 278 [91 Cal.Rptr.2d 453]
 Lysick v. Walcom (1968) 258 Cal.App.2d 136, 153 [65 Cal.Rptr. 406]
 Ishmael v. Millington (1966) 241 Cal.App.2d 520, 529 [50 Cal.Rptr. 592]
 Hegel v. Worthington, Park and Worthington (1962) 209 Cal.App.2d 670, 676 [26 Cal.Rptr. 132]
 Modica v. Crist (1954) 129 Cal.App.2d 144 [276 Cal.Rptr. 614]
 Feldesman v. McGovern (1941) 44 Cal.App.2d 566 [112 P.2d 645]
 not shown where criminal defendant actually guilty of crime for which convicted
 Bradshaw v. Pardee (1978) 78 Cal.3d 567
- Punitive damages in underlying lawsuit
 Piscitelli v. Friedenber (2001) 87 Cal.App.4th 953 [105 Cal.Rptr.2d 88]
- Recovery of emotional suffering damages
 Quezada v. Hart (1977) 67 Cal.App.3d 754 [136 Cal.Rptr. 815]
- Reliance on one attorney's advice does not preclude malpractice suit later
 Baright v. Willis (1984) 151 Cal.App.3d 303, 313 [198 Cal.Rptr. 510]
- Right to jury trial in legal malpractice actions
 Piscitelli v. Friedenber (2001) 87 Cal.App.4th 953 [105 Cal.Rptr.2d 88]
- Rule against perpetuities
 Lucas v. Hamm (1961) 56 Cal.2d 583, 592 [15 Cal.Rptr. 821]
- Rules of Professional Conduct as an ethical standard
 Ross v. Creel Printing & Publishing Co. (2002) 100 Cal.App.4th 736 [122 Cal.Rptr.2d 787]
 Mirabito v. Liccardo (1992) 4 Cal.App.4th 41
 David Welch Company v. Erskine and Tully (1988) 203 Cal.App.3d 884 [250 Cal.Rptr. 339]
- Scope of expert testimony
 Piscitelli v. Friedenber (2001) 87 Cal.App.4th 953 [105 Cal.Rptr.2d 88]
- Special appearances
 specially appearing attorney owes a duty of care to the litigant
 Streit v. Covington & Crowe (2000) 82 Cal.App.4th 441 [82 Cal.Rptr.2d 193]
- Standard of care
 Considine Co. Inc. v. Shadle, Hunt & Hagar et al. (1986) 187 Cal.App.3d 760, 765
 Wright v. Williams (1975) 47 Cal.App.3d 802, 809, 810 [121 Cal.Rptr. 194]
 Ishmael v. Millington (1966) 241 Cal.App.2d 520, 525 [50 Cal.Rptr. 592]
- failure to establish prima facie case
 --no expert testimony
 Conley v. Lieber (1979) 97 Cal.App.3d 646 [58 Cal.Rptr. 770]
 --no duty to consult medical specialist unless such consultations recommended by other doctors
 Bolton v. Trope (1999) 75 Cal.App.4th 1021 [89 Cal.Rptr.2d 637]
- for advice attorney to an in propria persona litigant
 LA 502 (1999)
- for legal specialist
 Peel v. Attorney Regulatory and Disciplinary Commission of Illinois (1990) 496 U.S. 91
 Wright v. Williams (1975) 47 Cal.App.3d 802, 809 [121 Cal.Rptr. 194]
- proof of
 --expert testimony required
 Lipscomb v. Krause (1978) 87 Cal.App.3d 970
- Statute of limitations
 Davies v. Krasna (1975) 14 Cal.3d 502 [121 Cal.Rptr. 705]
 Neel v. Magana, Olney, Levy, Cathcart & Gelfand (1971) 6 Cal.3d 176, 190 [98 Cal.Rptr. 837]
 Heyer v. Flaig (1969) 70 Cal.2d 233 [74 Cal.Rptr. 225]
 Alter v. Michael (1966) 64 Cal.2d 480 [50 Cal.Rptr. 553]
 Leasequip, Inc. v. Dapeer (2002) 103 Cal.App.4th 394 [126 Cal.Rptr.2d 782]
 Village Nurseries, L.P. v. Greenbaum (2002) 101 Cal.App.4th 26 [123 Cal.Rptr.2d 555]
 Lockley v. Law Office of Cantrell, Green, Pekich, Cruz & McCort (2001) 91 Cal.App.4th 875 [110 Cal.Rptr.2d 877]
 Stoll v. Superior Court (1992) 9 Cal.App.4th 1362 [12 Cal.Rptr.2d 1321]
 Johnson v. Simonelli (1991) 231 Cal.App.3d 105 [282 Cal.Rptr. 205]
 Gurkewitz v. Haberman (1982) 137 Cal.App.3d 328 [187 Cal.Rptr. 14]
 Bell v. Hummel & Pappas (1982) 136 Cal.App.3d 1009 [186 Cal.Rptr. 688]
 McGee v. Weinberg (1979) 97 Cal.App.3d 798 [159 Cal.Rptr. 86]
 Horne v. Peckham (1979) 97 Cal.App.3d 404, 416-417 [158 Cal.Rptr. 714]
 Tuck v. Thusen (1970) 10 Cal.App.3d 193 [88 Cal.Rptr. 759]
 Chavez v. Carter (1967) 256 Cal.App.2d 577, 580 [64 Cal.Rptr. 350]
 Eckert v. Schaal (1967) 251 Cal.App.2d 1, 4 [58 Cal.Rptr. 817]
 Bustamante v. Halt (1963) 222 Cal.App.2d 413 [35 Cal.Rptr. 176]
 Jensen v. Sprigg (1927) 84 Cal.App. 519
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Quintilliani v. Mannerino (1998) 62 Cal.App.4th 54 [72 Cal.Rptr.2d 359]
does not begin to run until client suffers actual harm
Village Nurseries, L.P. v. Greenbaum (2002) 101 Cal.App.4th 26 [123 Cal.Rptr.2d 555]
Robinson v. McGuinn (1987) 195 Cal.App.3d 66
-doctrine of "equitable tolling" applies to legal malpractice limitation period
Afrozmehr v. Asherson (1988) 201 Cal.App.3d 704 [847 Cal.Rptr. 296]
in action against attorney
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Leasequip, Inc. v. Dapeer (2002) 103 Cal.App.4th 394 [126 Cal.Rptr.2d 782]
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Lockley v. Law Office of Cantrell, Green, Pekich, Cruz & McCort (2001) 91 Cal.App.4th 875 [110 Cal.Rptr.2d 877]
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Quintilliani v. Mannerino (1998) 62 Cal.App.4th 54 [72 Cal.Rptr.2d 359]
-defendant bears burden of proving when plaintiff discovered or should have discovered alleged malpractice
Samuels v. Mix (2000) 22 Cal.4th 1 [91 Cal.Rptr.2d 273]
Village Nurseries, L.P. v. Greenbaum (2002) 101 Cal.App.4th 26 [123 Cal.Rptr.2d 555]
-duty of attorney to advise client of imminent running of
Miller v. Metzinger (1979) 91 Cal.App.3d 31 [154 Cal.Rptr. 22]
toll for bringing legal malpractice action while attorney still represents client on related matters, even if client knows of attorney's negligence
Crouse v. Brobeck, Phleger & Harrison (1998) 67 Cal.App.4th 1509 [80 Cal.Rptr.2d 94]
O'Neill v. Tichy (1993) 19 Cal.App.4th 114 [25 Cal.Rptr.2d 162]

Successor attorney advising client of action against former attorney

LA 390 (1981)

Superceding negligence of second attorney retained

Cline v. Watkins (1977) 66 Cal.App. 3d 174 [135 Cal.Rptr. 838]

Trust administrator's attorney's fees are compensable in litigation related to trust administration

Estate of Gump (1991) 1 Cal.App.4th 582 [2 Cal.Rptr.2d 269]

PROFESSIONAL SOCIETIES

Committees established for the maintenance of professional standards

immunity for liability

Civil Code section 43.7

Peer review committees

immunity for liability

Civil Code section 43.7

Professional standards, committees established for maintenance of

immunity for liability

Civil Code section 43.7

PROPERTY

Client's property

attorney's duties

Rule 8-101, Rules of Professional Conduct (operative until May 26, 1989)

Rule 4-100, Rules of Professional Conduct (operative as of May 27, 1989)

-withdrawal from representation

Rule 2-111(A)(2), Rules of Professional Conduct (operative until May 26, 1989)

Rule 3-700, Rules of Professional Conduct (operative as of May 27, 1989)

Sale of

auctioneer, attorney may act as

-where trust or deed of trust gives power of sale to trustee

Civil Code section 2924a

conduct sale

-attorney for trustee may

Civil Code section 2924a

trust or deed of trust gives power of sale to trustee

-attorney for trustee may conduct sale

Civil Code section 2924a

-auctioneer

--attorney may act as

Civil Code section 2924a

PROPERTY, PURCHASE OF AT PROBATE, FORECLOSURE, OR JUDICIAL SALE [See Estate. Purchasing property at

probate, foreclosure, or judicial sale.]

Rule 5-103, Rules of Professional Conduct (operative until May 26, 1989)

Rule 4-300, Rules of Professional Conduct (operative as of May 27, 1989)

Refusal to return other party's

LA(l) 1966-8

PROSECUTOR [See Attorneys of government agencies. Conflict of interest.]

Communication with criminal defendant who is potential witness to another crime

CAL 1979-49

Communication with jurors

CAL 1976-39

Conflict of interest

welfare proceeding

-between state and child

--disclosure to court

CAL 1977-45

Legal advice

to victim of crime

-of civil remedies

CAL 1976-40

Rule prohibiting ex parte communications does not bar discussions initiated by employee of defendant corporation with government attorney for the purpose of disclosing that corporate officers are attempting to suborn perjury and obstruct justice

United States v. Talao (9th Cir. 2000) 222 F.3d 1133

PROSECUTORIAL MISCONDUCT [See Competence. Ineffective assistance of counsel. Judges, ex parte communication with. Trial conduct.]

Note: This section is arranged according to the stage of the proceeding in which the conduct occurs.

Advocacy, proper

People v. Kelley (1984) 158 Cal.App.3d 1085, 1097

Appeal

timely objection required

People v. Fondron (1984) 157 Cal.App.3d 390

Authority

effect of trial court discretion on

People v. Geiger (1984) 35 Cal.3d 510, 530

Breach of plea bargain agreement

People v. Leroy (1984) 155 Cal.App.3d 602, 606

California county district attorney acted as state official for purposes of section 1983 claim when deciding whether to prosecute individual for criminal defense

Weiner v. San Diego County (9th Cir. 2000) 210 F.3d 1025

Closing argument [See 26 A.L.R. 3d 1909; 85 A.L.R. 2d 1132.]

admission into evidence of extrajudicial statement made by defendant in attempt to impeach defendant's testimony

People v. Disbrow (1976) 16 Cal.3d 101 [127 Cal.Rptr. 360, 545 P.2d 272]

People v. Nudd (1974) 12 Cal.3d 204, 210 [115 Cal.Rptr. 372, 524 P.2d 844]

alleged racial slur

People v. Torres (1982) 133 Cal.App.3d 265, 281 [184 Cal.Rptr. 39]

PROSECUTORIAL MISCONDUCT

appeal to passion and prejudice

People v. Simington (1993) 19 Cal.App.4th 1374

Drayden v. White (9th Cir. 2000) 223 F.3d 704

comment in attempt to discredit defense witness on fact witness's children had been taken from her because of neglect

People v. Dontanville (1970) 10 Cal.App.3d 783, 795 [89 Cal.Rptr. 172]

comment on counsel for defendant

People v. Goldberg (1984) 161 Cal.App.3d 170, 189-191 [207 Cal.Rptr. 431]

People v. Meneley (1972) 29 Cal.App.3d 41, 60 [105 Cal.Rptr. 432]

comment on defendant's bias and motive for lying

People v. Jenkins (1974) 40 Cal.App.3d 1054, 1057 [115 Cal.Rptr. 622]

comment on defendant's case

People v. Jenkins (1974) 40 Cal.App.3d 1054, 1057 [115 Cal.Rptr. 622]

People v. Meneley (1972) 29 Cal.App.3d 41, 60 [105 Cal.Rptr. 432]

comment on defendant's character and his associates

People v. Beyea (1974) 38 Cal.App.3d 176, 196 [113 Cal.Rptr. 254]

comment on defendant's choice of counsel

People v. Schindler (1980) 114 Cal.App.3d 178, 187 [170 Cal.Rptr. 461]

comment on defendant's failure to call certain witness/introduce evidence

Reynolds v. Superior Court (1974) 12 Cal.3d 834 [117 Cal.Rptr. 437, 528 P.2d 45] and disap in People v. Beagle (1972) 6 Cal.3d 441 [99 Cal.Rptr. 313, 442 P.2d 1]

In re Banks (1971) 4 Cal.3d 337, 349-351 [93 Cal.Rptr. 591, 482 P.2d 215]

People v. Coy (1981) 119 Cal.App.3d 254, 278-279 [173 Cal.Rptr. 889]

People v. Singleton (1980) 112 Cal.App.3d 418, 423 [169 Cal.Rptr. 333]

People v. Gray (1979) 91 Cal.App.3d 545, 551 [154 Cal.Rptr. 555]

People v. Corona (1978) 80 Cal.App.3d 684, 725 [145 Cal.Rptr. 894]

People v. Frohner (1976) 65 Cal.App.3d 94, 109 [135 Cal.Rptr. 153]

People v. Demond (1976) 59 Cal.App.3d 574, 591 [130 Cal.Rptr. 590]

People v. Jenkins (1974) 40 Cal.App.3d 1054, 1057 [115 Cal.Rptr. 622]

People v. DeVaney (1973) 33 Cal.App.3d 630, 636 [109 Cal.Rptr. 276]

People v. Smith (1971) 22 Cal.App.3d 25, 32 [99 Cal.Rptr. 171]

People v. Powell (1971) 14 Cal.App.3d 693, 695 [92 Cal.Rptr. 501]

People v. Rice (1970) 10 Cal.App.3d 730, 742 [89 Cal.Rptr. 200]

*People v. Hall (1970) 7 Cal.App.3d 562, 567 [86 Cal.Rptr. 504]

comment on defendant's failure to previously come forward with defense asserted at trial

People v. Martin (1980) 101 Cal.App.3d 1000, 1008-1009 [162 Cal.Rptr. 133]

comment on defendant's failure to reply to accusatory statement

People v. Martin (1980) 101 Cal.App.3d 1000, 1007-1008 [162 Cal.Rptr. 133]

comment on defendant's failure to testify

Campbell v. Blodgett (9th Cir. 1992) 982 F.2d 1321

People v. Medina (1995) 11 Cal.4th 694 [47 Cal.Rptr.2d 165; 906 P.2d 2]

People v. Vargas (1973) 9 Cal.3d 470 [108 Cal.Rptr. 15, 509 P.2d 959]

People v. Guzman (2000) 80 Cal.App.4th 1282 [96 Cal.Rptr.2d 87]

People v. Goodall (1982) 131 Cal.App.3d 129 [182 Cal.Rptr. 243]

People v. Jones (1970) 10 Cal.App.3d 237, 293 [88 Cal.Rptr. 871].

But see

In re Banks (1971) 4 Cal.3d 337, 349-351

People v. Gaulden (1974) 36 Cal.App.3d 942, 959-958 [111 Cal.Rptr. 803]

People v. Parks (1973) 32 Cal.App.3d 143, 151 [108 Cal.Rptr. 34]

People v. Meneley (1972) 29 Cal.App.3d 41 [105 Cal.Rptr. 432]

People v. Smith (1971) 22 Cal.App.3d 25, 32 [99 Cal.Rptr. 171]

People v. Bethea (1971) 18 Cal.App.3d 930, 936 [96 Cal.Rptr. 229] cert. den. 405 U.S. 1042, 31 L.Ed.2d 584, 92 S.Ct. 1325

-comment to jury on why defense witness did not testify
People v. Gaines (1997) 54 Cal.App.4th 821 [63 Cal.Rptr.2d 188]

People v. Gaines (1997) 52 Cal.App.4th 1004 [61 Cal.Rptr.2d 47]

-indirectly commenting on defendant's failure to testify
People v. Medina (1995) 11 Cal.4th 694 [47 Cal.Rptr.2d 165; 906 P.2d 2]

People v. Guzman (2000) 80 Cal.App.4th 1282 [96 Cal.Rptr.2d 87]

-sanity phase of trial

People v. Flores (1976) 55 Cal.App.3d 118

-statement that defendant's exercise of his Fifth Amendment rights did not mean that he was innocent or that jury was supposed to find him not guilty

People v. Rodgers (1979) 90 Cal.App.3d 368, 371-372 [153 Cal.Rptr.382]

comment on defendant's silence in face of accusation by private person

People v. Martin (1980) 101 Cal.App.3d 1000, 1004-1008 [162 Cal.Rptr. 133]

comment on defense counsel's failure to reveal alibi defense prior to trial

People v. Lindsey (1988) 205 Cal.App.3d 112, mod. 205 Cal.App.3d 986d

comment on defense counsel's tactics, implication of chicanery

People v. Jenkins (1974) 40 Cal.App.3d 1054, 1057 [115 Cal.Rptr. 622]

comment on failure of defense to call witnesses to advance alibi defense urged by defendant

People v. Najera (1979) 88 Cal.App.3d 930, 933-935 [152 Cal.Rptr. 124]

comment on failure of defense to present evidence corroborating defendant's asserted alibi

People v. Chandler (1971) 17 Cal.App.3d 798, 805-806 [95 Cal.Rptr. 146]

comment on lack of defense testimony

People v. Beyea (1974) 38 Cal.App.3d 176, 199 [113 Cal.Rptr. 254]

comment on lack of evidence presented by defense

People v. Gaulden (1974) 36 Cal.App.3d 942, 954-958 [111 Cal.Rptr. 803]

comment on merit of evidence presented by defense

People v. Powell (1980) 101 Cal.App.3d 513, 520 [161 Cal.Rptr. 803]

comment on possible sentence

People v. Kozel (1982) 133 Cal.App.3d 507, 519 [184 Cal.Rptr. 208]

comment on post-arrest silence

People v. Delgado (1992) 10 Cal.App.4th 1837 [13 Cal.Rptr.2d 703]

comment on pre-arrest silence

People v. Kelly (1981) 125 Cal.App.3d 575 [178 Cal.Rptr. 84]

comment on presentation of defendant's case/choice of counsel/trial tactics

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People v. Gordon (1982) 136 Cal.App.3d 519
comment on prior judgments/convictions of defendant [See
Prior judgments/convictions.]

People v. Bolton (1979) 23 Cal.3d 208, 212-15 [152
Cal.Rptr. 141, 589 P.2d 396]

People v. McDaniel (1976) 16 Cal.3d 156, 175-77 [127
Cal.Rptr. 467, 545 P.2d 843], cert. den. 429 U.S. 847 [50
L.Ed.2d 119, 97 S.Ct. 131]

People v. Savala (1979) 2 Cal.App.3d 415, 419-20 [82
Cal.Rptr. 313]

*People v. Allums (1975) 47 Cal.App.3d 654, 661 [121
Cal.Rptr. 62]

People v. Martinez (1973) 31 Cal.App.3d 355, 358 [107
Cal.Rptr. 284]

comment on testimony

- of character of witnesses
 - In re Gary G. (1981) 115 Cal.App.3d 629, 637 [171
Cal.Rptr. 531]
 - *People v. Benton (1979) 100 Cal.App.3d 92, 97 [161
Cal.Rptr. 12]
 - People v. Bedolla (1979) 94 Cal.App.3d 1, 8 [156
Cal.Rptr. 171]
 - People v. Ayers (1975) 51 Cal.App.3d 370, 379 [124
Cal.Rptr. 283]
 - People v. Hisquierdo (1975) 45 Cal.App.3d 397, 405-
06 [119 Cal.Rptr. 378]
 - People v. Beyea (1974) 38 Cal.App.3d 176, 197 [113
Cal.Rptr. 254]
 - People v. Meneley (1972) 29 Cal.App.3d 91, 60 [105
Cal.Rptr. 432]
 - People v. Luckett (1969) 1 Cal.App.3d 248, 255 [81
Cal.Rptr. 539]
- of defendant, comment as to veracity
 - People v. Green (1980) 27 Cal.3d 1, 27-36 [164
Cal.Rptr. 1, 609 P.2d 468]

comment on what would have been the testimony of uncalled
witness

People v. Hall (2000) 82 Cal.App.4th 813 [98 Cal.Rptr.2d
527]

death penalty reversed due to prosecutor's misleading closing
argument

People v. Farmer (1989) 47 Cal.3d 888 [254 Cal.Rptr. 508,
765 P.2d 940]

disparaging remarks about defense counsel

People v. Reyes (1974) 12 Cal.3d 486, 505-06 [116
Cal.Rptr. 217, 526 P.2d 225]

People v. Goldberg (1984) 161 Cal.App.3d 170, 189-191
[207 Cal.Rptr. 431]

erroneous statement of the law

People v. Scott (1982) 129 Cal.App.3d 301 [180 Cal.Rptr.
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expression of belief in defendant's guilt

People v. Prysock (1982) 127 Cal.App.3d 972 [180
Cal.Rptr. 15]

expression of opinion as to defendant's guilt

- *Dubria v. Smith (9th Cir. 1999) 197 F.3d 390
- People v. Herring (1993) 20 Cal.App.4th 1066 [25
Cal.Rptr.2d 213]
- People v. Green (1980) 27 Cal.3d 1, 27-36 [164 Cal.Rptr.
1, 609 P.2d 468]
- People v. Brown (1981) 119 Cal.App.3d 116, 133 [173
Cal.Rptr. 877]
- People v. Rodgers (1979) 90 Cal.App.3d 368, 371-372
[153 Cal.Rptr. 382]
- People v. Bush (1978) 84 Cal.App.3d 294, 306 [148
Cal.Rptr. 430]
- People v. La Fontaine (1978) 79 Cal.App.3d 176, 186 [144
Cal.Rptr. 729]
- People v. Dale (1978) 78 Cal.App.3d 722, 733 [144
Cal.Rptr. 338]
- *People v. Wiley (1976) 57 Cal.App.3d 149, 162-63 [129
Cal.Rptr. 13]
- People v. Beyea (1974) 38 Cal.App.3d 176, 196 [113
Cal.Rptr. 254]

People v. Calpito (1970) 9 Cal.App.3d 212, 222-23 [88
Cal.Rptr. 64]

expression of opinion as to a witness credibility

- *Dubria v. Smith (9th Cir. 1999) 197 F.3d 390
- United States v. Kerr (9th Cir. 1992) 981 F.2d 1050

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People v. Brown (1989) 207 Cal.App.3d 741 [255
Cal.Rptr. 67]

improper remarks as to defendant's character and as to
consequences of acquittal

People v. Jones (1970) 7 Cal.App.3d 358, 362-365 [86
Cal.Rptr. 516]

improper remarks directed against counsel for the defense

- *People v. Perry (1972) 7 Cal.3d 756, 789-91 [103
Cal.Rptr. 161, 499 P.2d 129]

improper remarks regarding conduct of defendant

People v. Blagg (1970) 10 Cal.App.3d 1035, 1040 [89
Cal.Rptr. 446]

impugning defense counsel's tactics at trial and in argument

People v. Haslouer (1978) 79 Cal.App.3d 818, 834 [145
Cal.Rptr. 234]

inferences and deductions

People v. Kozel (1982) 133 Cal.App.3d 507, 518-519
[184 Cal.Rptr. 208]

inferences and deductions drawn from facts ascertained at
trial

- People v. Preston (1973) 9 Cal.3d 308, 317 [107
Cal.Rptr. 300, 508 P.2d 300]
- People v. Butler (1980) 104 Cal.App.3d 868, 878 [162
Cal.Rptr. 913]
- People v. Lawson (1979) 100 Cal.App.3d 60, 65-66 [161
Cal.Rptr. 7]
- People v. Bedolla (1979) 94 Cal.App.3d 1, 8 [156
Cal.Rptr. 171]
- People v. Mendoza (1974) 37 Cal.App.3d 717, 726-727
[112 Cal.Rptr. 565]
- People v. Meneley (1972) 29 Cal.App.3d 41, 61 [105
Cal.Rptr. 432]
- People v. Vatelili (1971) 15 Cal.App.3d 54, 63 [92
Cal.Rptr. 763]
- People v. Rice (1970) 10 Cal.App.3d 730, 743 [89
Cal.Rptr. 200]
- People v. Brown (1970) 6 Cal.App.3d 619, 625 [86
Cal.Rptr. 149]

misstatement of law to jury

People v. Pineiro (1982) 129 Cal.App.3d 915 [179
Cal.Rptr. 883]

misstatement/erroneous statement of law or fact

- People v. Strickland (1974) 11 Cal.3d 946, 955-57 [114
Cal.Rptr. 632, 523 P.2d 672]
- People v. Beyea (1974) 38 Cal.App.3d 176, 198 [113
Cal.Rptr. 254]
- People v. Rodriguez (1970) 10 Cal.App.3d 18, 35-36 [88
Cal.Rptr. 789]
- People v. Calpito (1970) 9 Cal.App.3d 212, 222 [88
Cal.Rptr. 64]

penalty trial

- attempt to re-open issues resolved at guilt trial
 - People v. Haskett (1982) 30 Cal.3d 841, 864 [180
Cal.Rptr. 640, 640 P.2d 776]

prejudicial inflammatory comments during closing argument

- *Dubria v. Smith (9th Cir. 1999) 197 F.3d 390
- People v. Deasee (1993) 19 Cal.App.4th 374
- People v. Duckett (1984) 161 Cal.App.3d 307, 316 [207
Cal.Rptr. 491]

prosecutor effectively calling defense counsel a liar

United States v. Rodrigues (9th Cir. 1998) 159 F.3d 439

reference to Biblical passage sanctioning capital
punishment not prejudicial

People v. Welch (1999) 20 Cal.4th 701, 976 [85
Cal.Rptr.2d 203]

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reference to defendant as "smart thief" and "parasite on the community"
People v. Rodriguez (1970) 10 Cal.App.3d 18, 36 [88 Cal.Rptr. 789]

reference to defendant's use of heroin
Hall v. Whitley (9th Cir. 1991) 935 F.2d 164

reference to facts not in evidence
People v. Galloway (1979) 100 Cal.App.3d 551, 563-564 [160 Cal.Rptr. 914]
People v. Panky (1978) 82 Cal.App.3d 772, 781 [147 Cal.Rptr. 341]
People v. Baeske (1976) 58 Cal.App.3d 775, 783 [130 Cal.Rptr. 35]
People v. Beyea (1974) 38 Cal.App.3d 176, 197-98 [113 Cal.Rptr. 254]
People v. Meneley (1972) 29 Cal.App.3d 41, 62 [105 Cal.Rptr. 432]
People v. McDowell (1972) 27 Cal.App.3d 864, 880 [104 Cal.Rptr. 181]
People v. Wallace (1970) 13 Cal.App.3d 608, 616 [91 Cal.Rptr. 643]
People v. Rodriguez (1970) 10 Cal.App.3d 18, 35-36 [88 Cal.Rptr. 789]

reference to lack of witnesses/evidence presented by defense to corroborate asserted defense
People v. Roberts (1975) 51 Cal.App.3d 125, 135-137 [123 Cal.Rptr. 893]

remarks about defendant's self-representation and statements to the effect that prosecutors are held to higher standards than others
People v. Dale (1978) 78 Cal.App.3d 722, 733 [144 Cal.Rptr. 338]

soliloquy delivered in voice of murder victim from witness chair
Drayden v. White (9th Cir. 2000) 223 F.3d 704

statement impugning defendant's testimony
People v. Haslouer (1978) 79 Cal.App.3d 818, 833 [145 Cal.Rptr. 234]

statement that "the defendant thinks it is funny" regarding facing criminal charges
People v. Gilliam (1974) 41 Cal.App.3d 181, 194-195 [116 Cal.Rptr. 317]

statements denigrating the defense as a sham
Dubria v. Smith (9th Cir. 1999) 197 F.3d 390

statements directed at the jury regarding its functions, duties, and conclusions properly drawn
People v. Wilson (1979) 97 Cal.App.3d 547, 550 [158 Cal.Rptr. 811]
People v. Patino (1979) 95 Cal.App.3d 11, 29-31 [156 Cal.Rptr. 815]
People v. Bedolla (1979) 94 Cal.App.3d 1, 8 [156 Cal.Rptr. 171]
People v. Panky (1978) 82 Cal.App.3d 772, 780-781 [147 Cal.Rptr. 341]
People v. Haslouer (1978) 79 Cal.App.3d 818, 834 [145 Cal.Rptr. 234]
*People v. Smith (1973) 33 Cal.App.3d 51, 70-71 [108 Cal.Rptr. 698]
People v. Gay (1972) 28 Cal.App.3d 661, 675 [104 Cal.Rptr. 812]
People v. Daniels (1971) 16 Cal.App.3d 36, 47-48 [93 Cal.Rptr. 628]
People v. Calpito (1970) 9 Cal.App.3d 212, 222 [88 Cal.Rptr. 64]

statements to jury
People v. Haskett (1982) 30 Cal.3d 841, 863 [180 Cal.Rptr. 640, 640 P.2d 776]
as to what the testimony of an uncalled witness would have been
People v. Hall (2000) 82 Cal.App.4th 813 [98 Cal.Rptr.2d 527]

statements to the effect that defendant lied, and that a co-defendant had "ice running through his veins"
People v. Reyes (1974) 12 Cal.3d 486, 505 [116 Cal.Rptr. 217, 526 P.2d 225]

suggestion that defendant has the burden of raising a reasonable doubt as to guilt
*People v. Ramos (1982) 30 Cal.3d 553, 574-575 [180 Cal.Rptr. 266, 639 P.2d 908]

unsupported implication by prosecutor that defense counsel has fabricated a defense
People v. Bain (1971) 5 Cal.3d 839, 847-852 [97 Cal.Rptr. 684, 489 P.2d 564]

vouching by prosecutor not plain error
U.S. v. Molina (9th Cir. 1991) 934 F.2d 1440

Comments on defendant's conduct
People v. Garcia (1984) 160 Cal.App.3d 82, 93-94

Comments on lies by witnesses at a foreign extradition hearing constituted reversible error
People v. Jaspal (1991) 234 Cal.App.3d 1446

Comments to jury concerning personal responsibility for death penalty
People v. Fierro (1991) 1 Cal.4th 173

Communication with defendant
People v. Manson (1976) 61 Cal.App. 3d 102, 164 [132 Cal.Rptr. 265]

Conduct before a grand jury
failure to disclose witness's potential bias
U.S. v. Benjamin (9th Cir. 1988) 852 F.2d 413

Constitutional protection for criminal defendant
People v. Smith (1984) 155 Cal.App.3d 1103, 1138

Cross-examination
allegation of improper questioning and comment, and objectionable demeanor on part of prosecutor
People v. Hyatt (1971) 18 Cal.App.3d 618, 624 [96 Cal.Rptr. 156]

allegation that prosecutors questions exceeded the scope of direct examination
People v. Harris (1981) 28 Cal.3d 935, 953 [171 Cal.Rptr. 679, 623 P.2d 240]

alleged prejudicial questioning concerning defendant's use of/involvement with narcotics
People v. Dale (1978) 78 Cal.App.3d 722, 733 [144 Cal.Rptr. 338]

arguing facts not in evidence
People v. Baines (1981) 30 Cal.3d 143, 149 [177 Cal.Rptr. 861, 635 P.2d 455]

asking questions of defendant which implied that he was guilty of the charged offense where facts requisite to such a conclusion were not in evidence and had not been established
People v. Romero (1977) 68 Cal.App.3d 543, 597-598 [137 Cal.Rptr. 675]

asking questions of defendant's girlfriend, who had borne defendant's daughter, and mother designed to show bias
People v. Jones (1970) 7 Cal.App.3d 48, 53 [86 Cal.Rptr. 717]

asking questions reasonably necessary to develop fact of defendant's prior felony convictions
People v. Medina (1972) 26 Cal.App.3d 809, 820-822 [103 Cal.Rptr. 337]

asking questions which infer that witness has fabricated her testimonial evidence
People v. Straiten (1977) 71 Cal.App.3d 526, 535-36 [139 Cal.Rptr. 414]

asking witness, in attempt to impeach, whether he had ever been convicted of a felony
People v. Hall (1970) 5 Cal.App.3d 116, 124-26 [85 Cal.Rptr. 188]

attempt to discredit and impeach an alibi
-witness for defense
People v. Guillebeau (1980) 107 Cal.App.3d 531, 546-548 [166 Cal.Rptr. 45]

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attempt to discredit/impeach witness for defense regarding testimony as to defendant's mental/physical health at time of commission of the charged offense

People v. Mazor (1977) 76 Cal.App.3d 32, 46-49 [142 Cal.Rptr. 599]

attempt to impeach defendant on basis of his silence following arrest and Miranda warnings

People v. Galloway (1979) 100 Cal.App.3d 551, 556-560 [160 Cal.Rptr. 914]

bad faith may be manifested by prosecutor intentionally asking questions of witness, the answers to which he knows are inadmissible because of their prejudice to the accused, or by asking questions which he knows are improper and inadmissible

People v. Romero (1977) 68 Cal.App.3d 543, 548 [137 Cal.Rptr. 675]

comment on defendant's right of silence

U.S. v. Sehnal (9th Cir. 1991) 930 F.2d 1420

comment to defendant that "you stand an excellent chance of being convicted of first-degree murder"

People v. Hall (1970) 5 Cal.App.3d 116, 124-126 [85 Cal.Rptr. 188]

detailed examination of defendant on matters testified to on direct examination

People v. Green (1979) 95 Cal.App.3d 991, 1007-1008 [157 Cal.Rptr. 520]

directing improper questions to defendant

People v. Wong (1973) 35 Cal.App.3d 812, 833-835 [111 Cal.Rptr. 314]

eliciting testimony concerning defendant's need for money as a motive for commission of charged offense

People v. Morales (1979) 88 Cal.App.3d 259, 264 [151 Cal.Rptr. 610]

exceeding the scope of direct examination

*People v. Goss (1980) 105 Cal.App.3d 542, 546-547 [166 Cal.Rptr. 1]

failed attempt to impeach witness by prior inconsistent statement

People v. Robinson (1970) 6 Cal.App.3d 448, 454-455 [86 Cal.Rptr. 56]

failure to offer any evidence in rebuttal of defendant's denial of use of a false name

*People v. Chojnacky (1973) 8 Cal.3d 759, 766 [106 Cal.Rptr. 106, 505 P.2d 530]

forcing defendant to characterize U.S. Marshall as liar

United States v. Sanchez (9th Cir. 1999) 176 F.3d 1214

impeachment of defendant on a collateral matter

People v. Blair (1979) 25 Cal.3d 640, 664 [159 Cal.Rptr. 818, 602 P.2d 738]

impeachment of defendant's testimony at trial on basis of statements made by him at time of arrest and after proper Miranda warnings

People v. Hill (1980) 110 Cal.App.3d 937, 943 [168 Cal.Rptr. 272]

improper examination in order to place inadmissible prejudicial evidence before the jury

People v. Johnson (1978) 77 Cal.App.3d 866, 873 [143 Cal.Rptr. 852]

insinuations, made during objection to questioning of defendant by his counsel, that prosecutor had in his possession undisclosed but highly relevant and damaging evidence regarding defendant's prior sexual conduct

People v. Villa (1980) 109 Cal.App.3d 360, 364-367 [167 Cal.Rptr. 265]

presentation of rebuttal testimony regarding defendant's possession of a gun which was the basis of the charged offense

*People v. Goss (1980) 105 Cal.App.3d 542, 546-47 [166 Cal.Rptr. 1]

propriety of inquiries respecting prior convictions of defendant

People v. Watts (1954) 126 Cal.App.2d 659, 662-63 [272 P.2d 814]

question asked of defendant in attempt to produce evidence that would clarify inconsistency in identification testimony where prosecutor had no evidence to support the innuendo contained in the question

People v. Lyons (1971) 18 Cal.App.3d 760, 779-80 [96 Cal.Rptr. 76]

question by prosecutor, on cross-examination of defendant, as to whether defendant knew that another person who had been present during the execution of the search warrant was a heroin user

People v. Lovett (1978) 82 Cal.App.3d 527, 534 [147 Cal.Rptr. 136]

questioning co-defendant concerning the involvement of a third person in the actual perpetration of the charged offense where such involvement was revealed for the first time at trial

People v. Love (1977) 75 Cal.App.3d 928, 933 [142 Cal.Rptr. 532]

questioning defendant about post-arrest statements made which were inconsistent with his testimony on direct examination

People v. Clem (1980) 104 Cal.App.3d 337, 344 [163 Cal.Rptr. 553]

questioning defendant about prior conviction for armed robbery

People v. Hall (1970) 5 Cal.App.3d 116, 124-26 [85 Cal.Rptr. 188]

questioning defendant as to whether he had explained his alibi to arresting officers

People v. Cartwright (1980) 107 Cal.App.3d 402, 413-417 [166 Cal.Rptr. 37]

questioning defendant concerning his post-arrest silence

People v. Matthews (1980) 108 Cal.App.3d 793, 795 [167 Cal.Rptr. 8]

*People v. Gaines (1980) 103 Cal.App.3d 89, 92-96 [162 Cal.Rptr. 827]

questioning defendant concerning inconsistencies between the effect of his in-court testimony and his confession, where the matter was not raised on direct

People v. Blair (1975) 51 Cal.App.3d 480, 486 [124 Cal.Rptr. 123]

questioning defendant on his activities after the date of the crime and while defendant was in another jurisdiction, where said subject had not been raised on direct

People v. James (1976) 56 Cal.App.3d 876, 887-88 [128 Cal.Rptr. 733]

questioning defendant on his alleged use of marijuana at the scene of the crime absent any corroborative or independent evidence of such conduct

People v. Rocha (1971) 3 Cal.3d 893, 901-02 [92 Cal.Rptr. 172, 479 P.2d 372]

questioning defendant on the specifics of his asserted alibi defense

People v. Cartwright (1980) 107 Cal.App.3d 402, 413-417 [166 Cal.Rptr. 37]

questioning defendant to ascertain his motive in taking murder weapon to a third person after commission of crime

People v. Harris (1970) 7 Cal.App.3d 922, 927-28 [87 Cal.Rptr. 46]

questioning witness regarding a drug overdose for which she received emergency treatment

People v. Straiten (1977) 71 Cal.App.3d 526, 536 [139 Cal.Rptr. 414]

questions concerning defendant's knowledge of how to use a knife, asked of defendant in prosecution for possession of dirk/dagger by a prisoner

People v. Hisquierdo (1975) 45 Cal.App.3d 397, 404 [119 Cal.Rptr. 378]

questions eliciting fact that defendant was found with a newspaper of sexual orientation where defendant was charged with various sex offenses

People v. James (1976) 62 Cal.App.3d 399, 408 [132 Cal.Rptr. 888]

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- questions relating to defendant's post-arrest silence
People v. Farris (1977) 66 Cal.App.3d 376, 387-88 [136 Cal.Rptr. 45]
- questions which improperly suggest to jurors that prosecutor had a source of information unknown to them which corroborated the implication in questions that accused had engaged in extensive prior drug transactions
People v. Wagner (1975) 13 Cal.3d 612, 619 [119 Cal.Rptr. 457, 532 P.2d 105]
- reference to fact that defendant's wife did not testify on his behalf in the first trial (on some charges) as a basis for impeachment
People v. Straiten (1977) 71 Cal.App.3d 526, 535 [139 Cal.Rptr. 414]
- repeated questioning of defendant's psychiatric expert as to whether defendant had the requisite intent did not amount to prosecutorial misconduct
People v. Smithey (1999) 20 Cal.4th 936 [86 Cal.Rptr.2d 243]
- use by prosecutor of defendant's voluntary pretrial exculpatory statement in which he failed to claim that he had been coerced by another into aiding in the killings (charged offense) to impeach his inconsistent defense of coercion at trial
People v. Barker (1979) 94 Cal.App.3d 321, 327-330 [156 Cal.Rptr. 407]
- See also:
Anderson, Warden v. Charles (1980) 447 U.S. 404 [65 L.Ed.2d 222, 100 S.Ct. 2180]
- Coercive effect of misconduct on defense decision to plea bargain or go to trial
U.S. v. Basalo (9th Cir. 2001) 258 F.3d 945
- Deception of grand jury
United States v. Condo (9th Cir. 1984) 741 F.2d 238
- Deliberately causing a witness to invoke his Fifth Amendment privilege to the detriment of the defendant
United States v. Lord (9th Cir. 1983) 711 F.2d 887, 891
- Due diligence required
People v. Clay (1984) 153 Cal.App.3d 433, 436
- Duty to avoid prejudicial, non-relevant material by government witnesses
United States v. Long (9th Cir. 1983) 715 F.2d 1364
- Effect subsequent trial for greater charge
Barajas v. Superior Court (1983) 149 Cal.App.3d 30 [196 Cal.Rptr. 599]
- Evidence
- admission of defendant's statement, "I think I want a lawyer," made in response to question as to his whereabouts on the night of the crime; comment on defendant's silence
People v. Meneley (1972) 29 Cal.App.3d 41, 58 [105 Cal.Rptr. 432]
- admission of evidence of another burglary in which defendant was involved
People v. Carter (1972) 26 Cal.App.3d 862, 874-876 [103 Cal.Rptr. 327]
- allegations of material evidence
Price v. State Bar (1982) 30 Cal.3d 537, 547 [179 Cal.Rptr. 914, 638 P.2d 1311]
- alleged knowing use of perjured testimony
People v. Carter (1972) 26 Cal.App.3d 862, 874-876 [103 Cal.Rptr. 327]
- alleged suppression of evidence by prosecution's failure to call unindicted co-conspirator as witness; alleged suppression of prosecution witness's phone records
People v. Pic'I (1981) 114 Cal.App.3d 824, 879-880 [171 Cal.Rptr. 106]
- altering evidence in criminal trial
Price v. State Bar (1982) 30 Cal.3d 537, 543-546 [179 Cal.Rptr. 914, 638 P.2d 1311]
- attempt to introduce arrest record of a defense witness, waving around what was apparently the witness's rap sheet during argument at the bench
People v. Hernandez (1977) 70 Cal.App.3d 271, 281-282 [138 Cal.Rptr. 675]
- attempts to display to jury photographs of wounds sustained by victims where said photos had been ruled objectionable on basis of their prejudicial effect
People v. Hayes (1971) 19 Cal.App.3d 459, 470 [96 Cal.Rptr. 879]
- display of dangerous weapons to jury
People v. Thornton (1974) 11 Cal.3d 762 [114 Cal.Rptr. 467, 523 P.2d 267]
- displaying handguns and other items not admitted into evidence to the jury
People v. Chi Ko Wong (1976) 18 Cal.3d 698, 723 [135 Cal.Rptr. 392, 557 P.2d 976]
- elicitation of inadmissible evidence
People v. Parsons (1984) 156 Cal.App.3d 1165, 1170-1172
- eliciting inadmissible testimony concerning defendant's parole status and residence in a halfway house
People v. Morgan (1978) 87 Cal.App.3d 59, 65-70, 76 [150 Cal.Rptr. 712]
- fabricating
Milstein v. Cooley (9th Cir. 2001) 257 F.3d 1004
- fabricating evidence, filing false crime report, making comments to the media, and investigating crime against attorney may not be protected by absolute immunity
Milstein v. Cooley (9th Cir. 2001) 257 F.3d 1004
- failure to accept proffered stipulation by defendant as to an element of the charged offense where proof introduced at trial would be rightly prejudicial
People v. Sherren (1979) 89 Cal.App.3d 752, 755-759 [152 Cal.Rptr. 828]
- failure to clarify testimony susceptible of an interpretation known to be false by prosecutor
People v. Westmoreland (1976) 58 Cal.App.3d 32, 42-47 [129 Cal.Rptr. 554]
- failure to comply with trial court's order to delete references to defendant's conduct on parole from an exhibit given to the jury, even where such failure is inadvertent
People v. Piper (1980) 103 Cal.App.3d 102, 112-113 [162 Cal.Rptr. 833]
- failure to disclose evidence
People v. Pugh (1984) 156 Cal.App.3d 544 [203 Cal.Rptr. 43]
- failure to disclose whereabouts of informant upon whose testimony charges are founded; failure to produce informant at pretrial
People v. Partlow (1978) 84 Cal.App.3d 540, 557-59 [148 Cal.Rptr. 744]
- failure to inform defense of an agreement to provide benefits to key state witness in return for testimony in the case violates defendant's right to a fair trial
Singh v. K.W. Prunty (C.D. Cal. 1998) 142 F.3d 1157
- failure to present exculpatory evidence along with an admission by defendant contained in a taped telephone conversation, which had no bearing on the charges contained in defendant's indictment
People v. Vallerga (1977) 67 Cal.App.3d 847, 835-885 [136 Cal.Rptr. 429]
- failure to preserve
People v. Gonzales (1984) 156 Cal.App.3d 558, 561-562
- improper vouching by federal prosecutor
United States v. Edwards (9th Cir. 1998) 154 F.3d 915
- intentional destruction of capital defense strategy tape not violative of due process
People v. Zapien (1993) 4 Cal.4th 929 [17 Cal.Rptr.2d 122]
- introduction of physical evidence forming the basis of a count dismissed by the court
People v. Harris (1977) 71 Cal.App.3d 959, 967 [139 Cal.Rptr. 778]

statements by prosecutor during direct examination, inferring that defendant was the "Hillside Strangler"
People v. Wills-Watkins (1979) 99 Cal.App.3d 451, 456, 457 [160 Cal.Rptr. 289]

suppression by prosecutor of statement by victim to the effect that a third person, identified as a perpetrator, had been involved in the crime
People v. Bauer (1969) 1 Cal.3d 368, 375 [82 Cal.Rptr. 357, 461 P.2d 637]

use by prosecutor of allegedly perjured testimony of defendant's accomplice
People v. Laverne (1971) 4 Cal.3d 735, 742-744 [94 Cal.Rptr. 405, 484 P.2d 77]

use of perjured testimony
People v. Westmoreland (1976) 58 Cal.App.3d 32, 42-47 [129 Cal.Rptr. 554]

Examination of witness or defendant

alleged influence of witness, even if true would not have resulted in actual prejudice and was harmless
Karis v. Calderon (9th Cir. 2002) 283 F.3d 1117

asking a rebuttal witness whether he was aware of an investigation of defendant's billing practices in an earlier period in a prosecution for offenses arising out of defendant's doctor's presentation of allegedly false Medi-Cal claims
People v. Slocum (1975) 52 Cal.App.3d 867, 887-888 [125 Cal.Rptr. 442] cert. den. 426 U.S. 924

asking character witness on cross-examination about specific acts of misconduct relating to the offense for which defendant was charged
People v. Qui Mei Lee (1975) 48 Cal.App.3d 516, 528 [122 Cal.Rptr. 43]

asking questions clearly suggesting the existence of facts harmful to defendant where such facts were not in evidence and could not be established independently
People v. Chojnacky (1973) 8 Cal.3d 759, 766 [106 Cal.Rptr. 106, 505 P.2d 530]

asking questions known to be inadmissible and improper; asking questions for the clear purpose of prejudicing the jury against defendant
People v. Dorsey (1974) 43 Cal.App.3d 953, 964-966 [118 Cal.Rptr. 362]

asking questions, the answers to which prosecutor knows to be both irrelevant and prejudicial
People v. Fitzgerald (1972) 29 Cal.App.3d 296, 311 [105 Cal.Rptr. 458]

asking questions, the answers to which prosecutor knows to be inadmissible
People v. Mazoros (1977) 76 Cal.App.3d 32, 48 [142 Cal.Rptr. 599]

attempt to impeach defense alibi witness by demonstrating that she learned of the crime one day earlier than she had claimed in prior testimony
People v. Guillebeau (1980) 107 Cal.App.3d 531, 546-548 [166 Cal.Rptr. 45]

attempt to impeach defense witness by asking if he was in custody because of outstanding traffic warrants
People v. Jones (1970) 7 Cal.App.3d 48, 53 [86 Cal.Rptr. 717]

attempts by prosecution to cast aspersions upon defendant's character in relation to his personal sexual morality
People v. Yanikian (1974) 39 Cal.App.3d 366, 381-382 [114 Cal.Rptr. 188]

attempts to elicit allegedly improper testimony
People v. Rodriguez (1970) 10 Cal.App.3d 18, 36 [88 Cal.Rptr. 789]

attempts to elicit testimony of defendant's domain over drugs at a time outside a limitation previously set by trial court
People v. Pacheco (1972) 27 Cal.App.3d 70, 83 [103 Cal.Rptr. 583]

duty to see that a witness called by prosecutor volunteers no statement that would be inadmissible, and also those which are prejudicial
People v. Schiers (1971) 19 Cal.App.3d 102, 112-114 [96 Cal.Rptr. 330]

eliciting references to defendant's arrest record
People v. Brunt (1972) 24 Cal.App.3d 945, 957-958 [101 Cal.Rptr. 457]

eliciting statement on redirect of prosecution witness, that defendant had been in trouble with the police previously
People v. Vernon (1979) 89 Cal.App.3d 853, 865-867 [152 Cal.Rptr. 765]

expression of personal opinion re witnesses' credibility
U.S. v. Kerr (1992) 981 F.2d 1050

improper use of leading questions
People v. Hayes (1971) 19 Cal.App.3d 459, 470 [96 Cal.Rptr. 879]

inadvertently eliciting from witness the fact of defendant's previous imprisonment
People v. Sims (1976) 64 Cal.App.3d 544, 554-55 [134 Cal.Rptr. 566]

non-production of records used to refresh recollection of key prosecution witness
People v. Blackwell (1981) 117 Cal.App.3d 372, 378 [172 Cal.Rptr. 636]

prosecutor commits flagrant violation of defendant's right to remain silent by eliciting testimony that defendant had refused to make pretrial statement; asking defendant on cross-examination whether he made any pre-trial disclosure of his defense
People v. Andrews (1970) 14 Cal.App.3d 40, 48-49 [92 Cal.Rptr. 49]

question asked of defendant as to whether he had any means of identification on him at time of arrest
People v. Fitzgerald (1972) 29 Cal.App.3d 296, 311-12 [105 Cal.Rptr. 458]

question by prosecutor of victim of prior felony-rape as to whether witness had ever told prosecutrix that it appeared that she had been raped by the same man as had witness
People v. Rance (1980) 106 Cal.App.3d 245, 253 [164 Cal.Rptr. 822]

question by prosecutor which assumed that defendant and his companion had killed the victim
People v. Helfend (1969) 1 Cal.App.3d 873, 883-84 [82 Cal.Rptr. 295] cert. den. 398 U.S. 967 [26 L.Ed.2d 551, 90 S.Ct. 2182]

questioning certain witnesses concerning defendant's appearance before, during, and after a prior court proceeding; questioning witnesses about alleged "affair" defendant had during relevant time period
People v. Mazoros (1977) 76 Cal.App.3d 32, 47-48 [142 Cal.Rptr. 599]

questioning defendant's psychiatric expert witness on statements made by defendant to the psychiatrist, where such statements formed the basis of the expert's testimony
People v. Mazoros (1977) 76 Cal.App.3d 32, 46-47 [142 Cal.Rptr. 599]

reference by prosecution to defendant's parole status
People v. Romo (1975) 47 Cal.App.3d 976, 987-88 [121 Cal.Rptr. 684]

reference to defendant as "assailant" during direct examination of complaining witness in prosecution of rape
People v. Sims (1976) 64 Cal.App.3d 544, 552 [134 Cal.Rptr. 566]

reference to defendant's failure to surrender weapon (used in charged offense) to the police
People v. Burton (1981) 117 Cal.App.3d 382, 388-89 [172 Cal.Rptr. 632]

reference to defendant's pre-arrest silence
People v. Burton (1981) 117 Cal.App.3d 382, 386-88 [172 Cal.Rptr. 632]

remarks properly dismissed as abuse of writ of habeas corpus
Campbell v. Blodgett (9th Cir. 1992) 982 F.2d 1321

repeated questioning of defendant's psychiatric expert as to whether defendant had the requisite intent did not amount to prosecutorial misconduct
People v. Smithey (1999) 20 Cal.4th 936 [86 Cal.Rptr.2d 243]

PROSECUTORIAL MISCONDUCT

- seeking legal conclusion from witness; accusing defense counsel of having told a "blatant lie"
People v. Montgomery (1976) 61 Cal.App.3d 718, 734 [132 Cal.Rptr. 558]
- statements by prosecutor in a murder trial which in effect accused defense counsel of causing a witness to prejudice himself
*People v. Benjamin (1975) 52 Cal.App.3d 63, 79-81 [124 Cal.Rptr. 799]
- testimony elicited by prosecutor containing a reference to a parole agent
People v. Fitzgerald (1972) 29 Cal.App.3d 296, 312 [105 Cal.Rptr. 458]
- use of leading questions in direct examination by prosecutor in attempt to elicit damaging hearsay evidence
People v. Burciago (1978) 81 Cal.App.3d 151, 163-165 [146 Cal.Rptr. 236]
- Failure to disclose evidence
People v. Pugh (1984) 156 Cal.App.3d 544 [203 Cal.Rptr. 43]
- Failure to honor plea bargain
People v. Leroy (1984) 155 Cal.App.3d 602 [202 Cal.Rptr. 88]
- Failure to know whereabouts of informant
Twiggs v. Superior Court (1983) 34 Cal.3d 360
- Failure to use diligence in obtaining evidence
People v. Rodriguez (1984) 152 Cal.App.3d 289, 295-296
- Goadng a defendant to attempt an unsuccessful mistrial motion
Greyson v. Kellam (9th Cir. 1991) 937 F.2d 1409
- Harmless misconduct
United States v. Larrazolo (9th Cir. 1989) 869 F.2d 1354
United States v. Condo (9th Cir. 1984) 741 F.2d 238
no egregious pattern of misconduct
Karis v. Calderon (9th Cir. 2002) 283 F.3d 1117
- Immunity
absolute or qualified immunity may not shield from civil rights claim where district attorney misstates facts in affidavit to secure arrest warrant
Morley v. Walker (1999) 175 F.3d 756
district attorney's statements in a press release are privileged pursuant to prosecutorial immunity principles
Ingram v. Flippo (1999) 74 Cal.App.4th 1280 [89 Cal.Rptr.2d 60]
fabricating evidence, filing false crime report, making comments to the media and investigating crime against attorney may not be protected by absolute immunity against §1983 claims
Milstein v. Cooley (9th Cir. 2001) 257 F.3d 1004
- Improper argument
People v. Smith (1984) 155 Cal.App.3d 1103, 1182
- Improper questioning
People v. Darwiche (1984) 152 Cal.App.3d 630, 641-642
- Inferences and deductions
People v. Ferguson (1982) 129 Cal.App.3d 1014 [181 Cal.Rptr. 593]
- Interference with attorney-client relationship
Boulas v. Superior Court (1986) 187 Cal.App.3d 356
- Intimidation of witnesses
People v. Warren (1984) 161 Cal.App.3d 961
People v. Bryant (1984) 157 Cal.App.3d 582, 592-595
- Misstatement of law inadvertently made did not constitute misconduct
People v. Berryman (1993) 6 Cal.4th 1048 [25 Cal.Rptr.2d 867]
- Motive
Twiggs v. Superior Court (1983) 34 Cal.3d 360, 374-375 [194 Cal.Rptr. 152, 667 P.2d 1165]
- Obligation to avoid prejudicial non-relevant testimony by government witnesses
United States v. Long (9th Cir. 1983) 715 F.2d 1364, 1368 fn. 1
- Opening statement
misstatement of the value of a quantity of heroin in possession of defendant
People v. Cooper (1979) 95 Cal.App.3d 844, 849-850 [157 Cal.Rptr. 348]
prosecutor improperly refers to defendant's failure to testify
People v. Diaz (1989) 207 Cal.App.3d 922 [255 Cal.Rptr. 91]
prosecutor's statement that evidence would prove defendant committed a murder at the insistence of his girl friend
People v. Brown (1981) 119 Cal.App.3d 116, 131-32 [173 Cal.Rptr. 877]
reference to defendant as a felon
People v. Rodriguez (1970) 10 Cal.App.3d 18, 35 [88 Cal.Rptr. 789]
reference to expected testimony of a person who had testified at preliminary examination to potentially incriminating statements made by defendant, where said witness was never called
People v. Rhinehart (1973) 9 Cal.3d 139, 153-54 [107 Cal.Rptr. 34, 507 P.2d 642] ovrd. People v. Bolton (1979) 23 Cal.3d 208 [152 Cal.Rptr. 141, 589 P.2d 396]
reference to fact of defendant's status as a life prisoner
People v. Robles (1970) 2 Cal.3d 205, 213-214 [85 Cal.Rptr. 166, 466 P.2d 710]
reference to fact that one accused, arrested with defendant, led police to defendant's brother, where the brother had not been charged and was never formally accused of crime
People v. Brown (1980) 110 Cal.App.3d 24, 35-36 [167 Cal.Rptr. 557]
reference to polygraph test
People v. Carpenter (1979) 99 Cal.App.3d 527, 531-33 [160 Cal.Rptr. 386]
reference to statement made by defendant at time of arrest but prior to defendant's having been advised of his Miranda rights
Mozzetti v. Superior Court (1971) 4 Cal.3d 699 [94 Cal.Rptr. 412, 484 P.2d 84]
Altschul v. Sayble (1978) 83 Cal.App.3d 153 [147 Cal.Rptr. 716]
People v. Havenstein (1970) 4 Cal.App.3d 710, 713-715 [84 Cal.Rptr. 528]
reference to statement of separately tried co-defendant indicating a third party had committed the crime
People v. Brown (1981) 119 Cal.App.3d 116, 132 [173 Cal.Rptr. 877]
reference to the effect that defendant had "said very little" in response to the questions of an investigating police officer; comment on defendant's silence
People v. Meneley (1972) 29 Cal.App.3d 41, 59 [105 Cal.Rptr. 432]
references to evidence never produced by prosecutor in trial
People v. Hernandez (1970) 11 Cal.App.3d 481, 488-91 [89 Cal.Rptr. 766]
references to extraneous matters dealing with defendant's private life
People v. Powell (1974) 40 Cal.App.3d 107, 165-66 [115 Cal.Rptr. 109]
references to witnesses/testimony not produced at trial; statements known to be untrue
People v. Watson (1971) 15 Cal.App.3d 28, 44-45 [92 Cal.Rptr. 860]
remark that prosecution expected a certain witness to testify because the defense had subpoenaed her
*People v. Yarber (1979) 90 Cal.App.3d 895, 902 [153 Cal.Rptr. 875]

PROSECUTORIAL MISCONDUCT

- statement to jury that prosecutor would prove defendant's prior narcotics convictions by testimony of parole officers and by documentary evidence
*People v. Cruz (1970) 6 Cal.App.3d 384, 391 [85 Cal.Rptr. 918]
stating theory of the case
*People v. Ramos (1982) 30 Cal.3d 553, 574-75 [180 Cal.Rptr. 266, 639 P.2d 908]
use by prosecutor of allegedly "inflammatory" words, descriptions
People v. Hayes (1971) 19 Cal.App.3d 459, 469-70 [96 Cal.Rptr. 879]
use of unauthenticated voice recordings
People v. Kirk (1974) 43 Cal.App.3d 921, 929
- Penalty phase
Biblical authority quoted in final argument does not require reversal of penalty judgment
People v. Sandoval (1992) 4 Cal.4th 155 [14 Cal.Rptr.2d 342]
- Permissible advocacy
must contribute materially to the verdict
People v. Jackson (1984) 151 Cal.App.3d 153, 163
- Post trial
jurors, communication with
Rule 5-320, Rules of Professional Conduct (operative as of May 27, 1989)
CAL 1976-39
- Prejudice to appellant
New Hampshire Insurance Co. v. Madera (1983) 144 Cal.App.3d 298 [192 Cal.Rptr. 548]
assertion without proof that defense counsel fabricated a defense
People v. Sweeney (1984) 150 Cal.App.3d 553 [198 Cal.Rptr. 182]
lack of diligence re introducing prior convictions until after prosecutors case closed
People v. Rodriguez (1984) 152 Cal.App.3d 289 [199 Cal.Rptr. 433]
- Prejudice to defendant
multiple instances of prosecutorial misconduct and trial conduct error deprived capital defendant of a fair trial
People v. Hill (1998) 17 Cal.4th 800 [72 Cal.Rptr.2d 656]
- Preliminary hearing
alleged use of perjured testimony
People v. Brice (1982) 130 Cal.App.3d 201 [181 Cal.Rptr. 518]
misstatement of the facts by prosecutor, representing that defendant "was running" from the scene of the crime allowed inference of guilty knowledge on part of defendant
People v. DeLaSierra (1970) 13 Cal.App.3d 528, 534-35 [91 Cal.Rptr. 674]
- Presumption of vindictiveness
Twiggs v. Superior Court (1983) 34 Cal.3d 360, 368-369 [194 Cal.Rptr. 152, 667 P.2d 1165]
- Pretrial
Rule 7-106(A), Rules of Professional Conduct (operative until May 26, 1989)
Rule 5-320, Rules of Professional Conduct (operative as of May 27, 1989)
announcement to court by prosecutor that there was presently on file in municipal court an action against appellant (defendant)
People v. Patejdl (1973) 35 Cal.App.3d 936, 946
failure to elect
People v. Dunnahoo (1984) 152 Cal.App.3d 548
failure to join unrelated offenses
People v. Tirado (1984) 151 Cal.App.3d 341, 353-354
failure to use diligence in obtaining evidence
People v. Rodriguez (1984) 152 Cal.App.3d 289, 295-296
has burden to show good cause as to why accused has not been brought to trial
Rhinehart v. Municipal Court (1984) 35 Cal.3d 772, 780-781
- lineup by district attorney without notifying the attorney of record
People v. Sharp (1983) 150 Cal.App.3d 13, 18
Questions which are sufficient for reversal
People v. Barr (1984) 159 Cal.App.3d 1129, 1160
- Recusal
improper absent evidence that prosecutor would employ discretionary powers to deprive defendant of fair trial
People v. McPartland (1988) 198 Cal.App.3d 569 [243 Cal.Rptr. 752]
- Retaliation against defendant
Morley v. Walker (1999) 175 F.3d 756
People v. Lucious (1984) 153 Cal.App.3d 416, 421
- Suppression of evidence
Hast. Const. L.Q. 715 (fall 1977)
People v. Newsome (1982) 136 Cal.App.3d 992 [186 Cal.Rptr. 676]
advising rape victim of her right to refuse a psychiatric examination
People v. Mills (1978) 87 Cal.App.3d 302, 308 [151 Cal.Rptr. 71]
destruction of tapes containing recorded, incriminating statements to police by accused
People v. Anderson (1976) 59 Cal.App.3d 831, 843 [131 Cal.Rptr. 104]
failure to call informant to testify for People
People v. Moran (1970) 1 Cal.3d 755, 761 [83 Cal.Rptr. 411, 463 P.2d 763]
failure to disclose identity of an informant
People v. Rand (1972) 23 Cal.App.3d 579, 583 [100 Cal.Rptr. 473]
failure to disclose to co-defendant offer of leniency in exchange for testimony
People v. Westmoreland (1976) 58 Cal.App.3d 32, 42-47 [129 Cal.Rptr. 554]
failure to disclose to prosecution reasonably accessible address of prospective witness
In re Littlefield (1993) 5 Cal.4th 122 [19 Cal. Rptr.2d 248]
failure to inform counsel for defense that evidence critical to asserted defense had been falsified, causing defendant to abandon the defense, where prosecutor knew that facts would sustain the defense if truthfully disclosed
People v. Dena (1972) 25 Cal.App.3d 1001, 1010 [102 Cal.Rptr. 357]
failure to produce a prior statement of prosecution witness to police which incriminated defendant in a way different in factual detail but not in effect from witness's statement
People v. Green (1971) 3 Cal.3d 981, 991 [92 Cal.Rptr. 494, 479 P.2d 998]
improper interference with defendant's right to psychiatric examinations of the complaining witness in prosecution for incest and rape
People v. Davis (1971) 20 Cal.App.3d 890, 896-97 [89 Cal.Rptr. 71]
material evidence bearing on credibility of key prosecution witness
People v. Ruthford (1975) 14 Cal.3d 399, 406-409 [121 Cal.Rptr. 261, 534 P.2d 1341]
suppression of exculpatory fingerprint
Imbler v. Craven (1969) 298 F.Supp. 795, affd. 424 F.2d 631 cert. den. 400 U.S. 865, 27 L.Ed.2d 104, 91 S.Ct. 100
suppression of extra-judicial statement of defendant as to co-defendant
People v. Brawley (1969) 1 Cal.3d 277, 296 [82 Cal.Rptr. 161, 461 P.2d 361] cert. den. 400 U.S. 993, 27 L.Ed.2d 441, 91 S.Ct. 462
- Trial conduct
calling to the stand defendant's juvenile accomplice, knowing that the minor would invoke the privilege against self-incrimination
People v. Chandler (1971) 17 Cal.App.3d 798, 803-05 [95 Cal.Rptr. 146]

PROSECUTORIAL MISCONDUCT

comment by prosecutor on

-defense counsel's intentions

People v. Goldberg (1984) 161 Cal.App.3d 170, 190-191 [207 Cal.Rptr. 431]

-merits of a case both as to law and fact

People v. Johnson (1979) 39 Cal.App.3d 749, 763 [114 Cal.Rptr. 545]

conferring with judge in absence of opposing counsel respecting alteration of evidence by prosecutor

Price v. State Bar (1982) 30 Cal.3d 537, 543-46 [179 Cal.Rptr. 914, 638 P.2d 1311]

criticizing trial court's publicity order, attempting to secure removal of defense counsel

People v. Manson (1976) 61 Cal.App.3d 102, 179-180 [132 Cal.Rptr. 265]

duty to disclose misleading testimony of prosecution's witnesses

In re Martin (1983) 150 Cal.App.3d 148, 169

effect on conduct on verdict

People v. Sweeney (1984) 150 Cal.App.3d 553, 568-569 [198 Cal.Rptr. 182]

ex parte communication to the adjudication hearing referee in juvenile court proceeding indicating that a witness in a companion case had told him that the companion minor had attempted to run over the witness's children

In re Robert W. (1977) 68 Cal.App.3d 705, 713-14 [137 Cal.Rptr. 558]

failure of district attorneys to inform appointed defense counsel of bargain made with defendant; deliberate debasement of the attorney-client relationship by disparaging defendant's counsel; encouraging defendant to reveal nothing of the prosecutor's bargain to his counsel

People v. Moore (1976) 57 Cal.App.3d 437, 441 [129 Cal.Rptr. 279]

failure to indicate modification in standard jury instructions

People v. Kozel (1982) 133 Cal.App.3d 507, 518 [184 Cal.Rptr. 208]

failure to inform defense of an agreement to provide benefits to key state witness in return for testimony in the case violates defendant's right to a fair trial

Singh v. K.W. Prunty (C.D. Cal. 1998) 142 F.3d 1157

inadvertent violation of court order prohibiting reference to highly prejudicial evidence

People v. Gomez (1976) 63 Cal.App.3d 328, 337-39 [133 Cal.Rptr. 731]

inconsistency in referring to date of commission of charged offense where prosecutor alternately referred to two dates and defense was predicated on alibi accounting for only one of those

*People v. Chojnacky (1973) 8 Cal.3d 759, 766 [106 Cal.Rptr. 106, 505 P.2d 530]

interview given to magazine reporters by a deputy district attorney in violation of court's publicity order

People v. Manson (1976) 61 Cal.App.3d 102, 177-79 [132 Cal.Rptr. 265]

making disparaging remarks concerning the on-going prosecution of defendant

People v. Jones (1970) 10 Cal.App.3d 237, 245 [88 Cal.Rptr. 871]

offer of assistance to criminal defendant in exchange for valuable consideration

Price v. State Bar (1982) 30 Cal.3d 537, 543-46 [179 Cal.Rptr. 914, 638 P.2d 1311]

offer to stipulate to reopening case in order to corroborate testimony to which defendant had objected

People v. Utter (1972) 24 Cal.App.3d 535, 554 [101 Cal.Rptr. 214]

prejudicial comments

United States v. Medina-Gasca (9th Cir. 1984) 739 F.2d 1451, 1455

reference, in criminal proceedings under juvenile court law, to fact that defendant's father was facing criminal charges

In re Gary G. (1981) 115 Cal.App.3d 629, 637

reference to fact that two of defendant's fellow gang members had been convicted of charges arising out of the same murders in which defendant was charged

People v. Szeto (1981) 29 Cal.3d 20, 30-31 [171 Cal.Rptr. 652, 623 P.2d 213]

repeated acts of intemperate and unprofessional conduct by deputy district attorney, including personal attacks and threats against defense counsel, ridicule of defendants and their defense, and refusal on occasion to comply with trial court's orders

People v. Kelley (1977) 75 Cal.App.3d 672, 680-690 [142 Cal.Rptr. 457]

statements insinuating that defendant was involved in a prostitution ring

*People v. Hathcock (1973) 8 Cal.3d 599, 610-11 [105 Cal.Rptr. 540, 504 P.2d 476]

use of district attorney's address as his own by prosecution witness

People v. Page (1980) 104 Cal.App.3d 569, 573 [163 Cal.Rptr. 839]

Two-step analysis

People v. Callegri (1984) 154 Cal.App.3d 856, 864

Use of courtroom to eavesdrop on confidential attorney-client communications requires severe sanctions

Robert Lee Morrow v. Superior Court (1994) 30 Cal.App. 4th 1252 [36 Cal.Rptr.2d 210]

Vindictiveness

People v. Hudson (1989) 210 Cal.App.3d 784 [258 Cal.Rptr. 563]

Voir dire

leaving police officer's file in position where plainly visible to members of venire

People v. Luckett (1969) 1 Cal.App.3d 248, 255 [81 Cal.Rptr. 539]

peremptory challenge based on gender violated Equal Protection Clause

United States v. De Gross (9th Cir. 1992) 960 F.2d 1433

peremptory challenges on unmarried female venire persons

violated defendant's right to equal protection

United States v. Omoruyi (1993) 7 F.3d 880

prosecutor's peremptory challenge of sole black juror not a

showing of group bias

People v. Christopher (1991) 1 Cal.App.4th 666 [2 Cal.Rptr.2d 69]

prosecutor speculating as to whether defendant would elect to take the stand; statement that in event of evidentiary conflict defendant would only have to take the witness stand and deny the charges

People v. Rodgers (1979) 90 Cal.App.3d 368, 371-72 [153 Cal.Rptr. 382]

prosecutor's peremptory challenge of sole black juror not a showing of group bias

People v. Christopher (1991) 1 Cal.App.4th 666 [2 Cal.Rptr.2d 69]

reference to impeaching effect which defendant's five prior felony convictions would have

People v. Bowen (1971) 22 Cal.App.3d 267, 289-91 [99 Cal.Rptr. 498]

selection of a "death penalty oriented" jury

People v. Wong (1973) 35 Cal.App.3d 812, 832-33 [111 Cal.Rptr. 314]

unsupported implication by prosecutor that defense counsel has fabricated a defense

People v. Bain (1971) 5 Cal.3d 839, 847-852 [97 Cal.Rptr. 684, 489 P.2d 564]

using peremptory challenges for racially discriminatory purposes

People v. Sanchez (1992) 6 Cal.App.4th 913 [8 Cal.Rptr.2d 200]

People v. Clay (1984) 153 Cal.App.3d 433 [200 Cal.Rptr. 269]

Vouching

United States v. Edwards (9th Cir. 1998) 154 F.3d 915

United States v. Molina (9th Cir. 1991) 934 F.2d 1440

PUBLIC OFFICE

not found
U.S. v. Tavakkoly (9th Cir. 2001) 238 F.3d 1062
Withholding evidence
United States v. Medina-Gasca (9th Cir. 1984) 739 F.2d 1451, 1455
Witness's absence not improperly effected by prosecutor
Acosta-Huerta v. Estelle (9th Cir. 1992) 954 F.2d 581
Witness credibility
expression of personal opinion
U.S. v. Kerr (1992) 981 F.2d 1050
PUBLIC OFFICE [See Administrative agency. Court. Judge. Political activity.]
City attorney
associate of
-practice by
LA(I) 1975-4
former associate or partner refers clients to former firm
CAL 1967-10
partner
-practice by
LA(I) 1975-4
partner represents
-in criminal matters
LA 242 (1957), LA(I) 1975-4
partnership with
-practice by
--associate of
LA(I) 1975-4
City council member
associate, practice by
CAL 1977-46
LA(I) 1975-4
communication with
Rule 2-100, Rules of Professional Conduct
CAL 1977-43
partner
-practice by
CAL 1977-46, LA(I) 1975-4
represents
-criminal defendants
CAL 1977-46
-in ordinance violations
LA 273 (1962), SD 1969-1
-in traffic cases
SD 1969-1
Electioneering
for judge
-lawyer may question incumbent judge's qualifications
LA 304 (1968)
Judge
election campaign for
-lawyer may question incumbent judge's qualifications
LA 304 (1968)
systematically and routinely sold his office and his public trust
In the Matter of Jenkins (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 157
Lawyer
as a candidate for
-misleading public re experience
LA 297 (1966)
-use of campaign materials to advertise profession
LA 297 (1966)
Prosecuting attorney
communication with criminal defendant
-who may be witness for matter unrelated to that for which accused
CAL 1979-49
criticizes sentence
SD 1974-8
employer of, practice by
LA 377 (1978)

former
-represent person indicted by grand jury
--when served as, during pendency of same action
LA 117 (1937)
legal advice
-to victim of crime
--re civil remedies
CAL 1976-40
partner of
-practice by
LA 377 (1978)
-represents
--in criminal matter
Business and Professions Code section 6131
LA 377 (1978)
welfare proceedings
-potential conflict between interests of state and child
--disclosure to court
CAL 1977-45
PUBLICATION [See Advertising, publication. Judicial conduct. Lecture. Solicitation.]
Rule 2-101, Rules of Professional Conduct (operative until May 26, 1989)
Rule 1-400, Rules of Professional Conduct (operative as of May 27, 1989)
Article
about self
LA 38 (1927)
SD 1975-3
on law
-about pending case
LA 343 (1974)
-attorney cannot be identified as an attorney
SF 1972-1
-lay publication
LA 181 (1951), LA(I) 1978-1
SF 1972-1
-newspaper
LA 175 (1950), SD 1974-3
-periodical
LA 181 (1951), LA(I) 1964-2, LA(I) 1960-4
-trade of professional
LA 200 (1952), LA(I) 1964-2
Biography
LA 268 (1960)
SD 1973-4
Book
about case
LA 369 (1977)
course for real estate salespeople
LA(I) 1963-3
law book
LA 235 (1956)
Client's counsel listed in
SF 1974-2
Column
law
-in newspaper
LA 354 (1976), LA 191 (1952), LA 34 (1927)
SD 1976-2, SD 1974-3
--bar association
LA 191 (1952)
"Course" for real estate salespeople
LA(I) 1963-3
Directory
SD 1968-1
Legal newsletter or service
LA 148 (1944)
Pamphlet
"consult your lawyer first," by bar association
LA 65 (1931)
on legal topic
LA(I) 1962-1

PURCHASING PROPERTY AT PROBATE, FORECLOSURE, OR JUDICIAL SALE

PURCHASING PROPERTY AT PROBATE, FORECLOSURE, OR JUDICIAL SALE [See Estate.]

Rule 5-103, Rules of Professional Conduct (operative until May 26, 1989)

Rule 4-300, Rules of Professional Conduct (operative as of May 27, 1989)

Sodikoff v. State Bar (1975) 14 Cal.3d 422, 425-432 [121 Cal.Rptr. 467, 535 P.2d 331]

Silver v. State Bar (1974) 13 Cal.3d 134, 137-142 [117 Cal.Rptr. 821, 528 P.2d 1157]

Lee v. State Bar (1970) 2 Cal.3d 927, 930-942 [88 Cal.Rptr. 361, 472 P.2d 449]

Eschwig v. State Bar (1969) 1 Cal.3d 8, 11-19 [81 Cal.Rptr. 352, 459 P.2d 904]

Marlowe v. State Bar (1965) 63 Cal.2d 304, 305-311 [46 Cal.Rptr. 326, 405 P.2d 150]

Stanford v. State Bar of California (1940) 15 Cal.2d 721, 722-728 [104 P.2d 635]

Lantz v. State Bar (1931) 212 Cal. 213 [298 P. 497]

Carlson v. Lantz (1929) 208 Cal. 134, 138-142 [280 P. 531]

Expanding prohibition to include purchases made by attorney's spouse

Marlowe v. State Bar (1965) 63 Cal.2d 304, esp. at 307-308 [46 Cal.Rptr. 326, 405 P.2d 150]

Permissible where attorney only represents a mortgage company to obtain relief from an automatic stay in bankruptcy court
LA 455

Presumption of undue influence respecting agreements between attorney and client

Magee v. State Bar (1962) 58 Cal.2d 423, 425-433 [24 Cal. Rptr. 839, 374 P.2d 807]

Estate of Witt (1926) 198 Cal. 407, 419-426 [245 P. 197]

"Probate sale" construed

Eschwig v. State Bar (1969) 1 Cal.3d 8, 15 [81 Cal.Rptr. 352, 459 P.2d 904]

Calzada v. Sinclair (1970) 6 Cal.App.3d 903, 906-918 [86 Cal.Rptr. 387]

See also:

Silver v. State Bar (1974) 13 Cal.3d 134, 137-140 [117 Cal.Rptr. 821, 528 P.2d 1157]

Yokozeki v. State Bar (1974) 11 Cal.3d 436, 441-451 [113 Cal.Rptr. 602, 521 P.2d 858]

Ames v. State Bar (1973) 8 Cal.3d 910, 915-921 [106 Cal.Rptr. 489, 506 P.2d 625] re: applicability, scope and breadth of rule 5-103 vis-à-vis rule 5-102

Coviello v. State Bar (1955) 45 Cal.2d 57, 60-66 [286 P.2d 357]

Estate of Efron (1981) 117 Cal.App.3d 915, 928-931 [173 Cal.Rptr.93] re: applicability of rule 5-103 in probate proceedings, especially with respect to attorneys duties to client/client's interest

You may also wish to consult:

Matter of Randall (1981) 640 F.2d 898

QUANTUM MERUIT [See Fee.]

REAL ESTATE [See Trustee.]

Attorney/realtor [See Practice of law, dual occupation.]

CAL 1982-69, SD 1992-1, SD 1969-2, LA 413, LA 384

Board

attorney becomes affiliate of

CAL 1968-15

REAL ESTATE TRANSACTION [See Conflict of interest. Estate. Purchasing property at probate, foreclosure or judicial sale.]

Represent

buyer and seller/later one against other

SF 1973-22

client in donating property to another client, later same client in attempt to secure return of property

LA(l) 1970-10

REALTOR [See Practice of law, dual profession and Business Activity, dual profession.]

REBATE [See Commission. Fees.]

Code of Civil Procedure section 568

RECEIVER [See Bankruptcy.]

Code of Civil Procedure section 568

Entitled to attorney-client privilege

Shannon v. Superior Court (1990) 217 Cal.App.3d 986 [266 Cal.Rptr. 242]

RECORDING

Rule 2-101(E), Rules of Professional Conduct (operative until May 26, 1989)

Rule 1-400, Rules of Professional Conduct (operative as of May 27, 1989)

Court proceedings

California Rule of Court 980

Disclosure of wiretap after its authorization expires violated 18 U.S.C. 2232(c)

U.S. v. Aguilar (1995) 515 U.S. 593 [115 S.Ct. 2357]

Of conversation

California Penal Code section 632

Kimmel v. Goland (1990) 51 Cal.3d 202 [271 Cal.Rptr. 191]

In the Matter of Wyrick (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 83

telephone

Kimmel v. Goland (1990) 51 Cal.3d 202 [271 Cal.Rptr. 191]

CAL 1966-5, LA 272 (1962), LA 182 (1951)

California Penal Code section 633

applicability to city attorney while prosecuting misdemeanor cases

79 Ops. Cal. Atty. Gen. 221 (9/16/96; No. 96-304)

REFERRAL FEE [See Division of Fees. Referral of legal business.]

REFERRAL OF BUSINESS

To physician

LA 443 (1988)

REFERRAL OF LEGAL BUSINESS [See Division of fees. Fee. Lay employees. Lay intermediaries. Legal referral services. Solicitation of business.]

Business and Professions Code section 6152(c)

Rules 2-108 and 3-102, Rules of Professional Conduct (operative until May 26, 1989)

Rules 2-200 and 1-320, Rules of Professional Conduct (operative as of May 27, 1989)

Between partners when one is lawyer-physician

LA 331 (1973)

Referred by

adjuster

who failed to settle claim

LA 59 (1930)

attorney to associate or partner

who specializes in field of law

CAL 1967-10

business to partner who is lawyer

CAL 1969-18

client's employees

LA(l) 1973-10

consumer organization

LA(l) 1978-1, SD 1983-5, SD 1975-17, SF 1973-27

educational foundation

LA(l) 1977-2

foreign attorney

LA(l) 1959-3

insurance agent

LA(l) 1964-3

investigator

employed by client

LA 67 (1932)

lay entity

by membership organization

LA 401 (1982)

by religious organization

--employing attorney

--referral of member

LA 298 (1966)

REFERRAL SERVICES

- for compensation from client
 - LA 135 (1941)
- of employees
 - where lawyer hired to advise, counsel, and represent employee of industrial organization
 - LA 137 (1941)
- real estate business
 - LA 140 (1942)
 - associated with lawyer
 - LA 140 (1942)
- selling of legal services
 - LA 137 (1941)
- management consulting company
 - LA 446 (1987)
- membership organization
 - LA 401 (1982)
- non-profit organization
 - SF 1976-2
 - traveler's aid
 - no charge
 - LA 73 (1934)
- physician
 - LA(I) 1949-1
- real estate agent/broker
 - in expectation of compensation
 - LA 18 (1922)
- suspended attorney
 - LA(I) 1937-1
- union representative who is spouse
 - LA(I) 1974-5
- Civil case
 - duty to referring attorney
 - Mason v. Levy and Van Bourg (1978) 77 Cal.App.3d 60 [143 Cal.Rptr. 389]
- Compensation in consideration for
 - by lawyers
 - Rule 2-108(B), Rules of Professional Conduct (operative until May 26, 1989)
 - Rule 2-200(B), Rules of Professional Conduct (operative as of May 27, 1989)
 - by non-lawyers
 - Rule 3-102(B), Rules of Professional Conduct (operative until May 26, 1989)
 - Rule 1-320(B), Rules of Professional Conduct (operative as of May 27, 1989)
 - by representative of the press
 - Rule 3-102(C), Rules of Professional Conduct (operative until May 26, 1989)
 - Rule 1-320(C), Rules of Professional Conduct (operative as of May 27, 1989)
- Thank sources of
 - LA(I) 1968-2
- To opposing counsel
 - LA(I) 1959-6
- Traffic court appearances
 - SD 1974-2

REFERRAL SERVICES

Minimum standards [See This Compendium, Part I-B, appendix A, State Bar Act.]

REINSTATEMENT

After disbarment

- Hippard v. State Bar (1989) 49 Cal.3d 1084
- Calaway v. State Bar (1986) 41 Cal.3d 743
- In re Andreani (1939) 14 Cal.2d 736, 748-750
- In re Bodell (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 459
- In the Matter of Salant (Review Dept. 1999) 4 Cal. State Bar Ct. Rptr. 1

Denied because of petitioner's failure to prove rehabilitation, present moral qualifications, and present legal learning and ability

In the Matter of Ainsworth (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 894

REPORTING FEES

In the Matter of Miller (Review Dept. 1993) 2 Cal. State Bar Ct. Rptr. 423

In the Matter of Heiner (Review Dept. 1993) 2 Cal. State Bar Ct. Rptr. 301

In the Matter of Rudman (Review Dept. 1993) 2 Cal. State Bar Ct. Rptr. 756

After resignation

passage of professional responsibility examination is a condition of reinstatement, not a condition precedent to filing of petition for reinstatement

In the Matter of Sheppard (Review Dept. 1999) 4 Cal. State Bar Ct. Rptr. 91

After resignation with disciplinary charges pending

does not affect the necessity for a reinstatement proceeding

Hippard v. State Bar (1989) 49 Cal.3d 1084, 1082, fn. 4

Calaway v. State Bar (1986) 41 Cal.3d 743, 745

Tardiff v. State Bar (1980) 27 Cal.3d 395, 398

In the Matter of Brown (Review Dept. 1993) 2 Cal. State Bar Ct. Rptr. 309, 314, fn. 2

petitioner must pass professional responsibility examination and demonstrate rehabilitation, present moral qualifications, and present learning and ability in the general law

In the Matter of Sheppard (Review Dept. 1999) 4 Cal. State Bar Ct. Rptr. 91

reimbursement of Client Security Fund is a condition of reinstatement, not a condition precedent to filing of petition for reinstatement

In the Matter of Jaurequi (Review Dept. 1999) 4 Cal. State Bar Ct. Rptr. 56

unauthorized practice of law and lack of candor demonstrated the lack of moral reform that would prevent reinstatement

In the Matter of Kirwan (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 630

Moral character

unresolved tax delinquencies

In re Bodell (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 459

Not precluded by egregiousness of misconduct as law favors rehabilitation

Resner v. State Bar (1967) 67 Cal.2d 799, 811

In re Andreani (1939) 14 Cal.2d 736, 749

In the Matter of Brown (Review Dept. 1993) 2 Cal. State Bar Ct. Rptr. 309

In the Matter of McCray (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 373, 382

Standard for rehabilitation and present moral qualifications

Calaway v. State Bar (1986) 41 Cal.3d 743

Resner v. State Bar (1967) 67 Cal.2d 799

Allen v. State Bar (1962) 58 Cal.2d 912

Werner v. State Bar (1954) 42 Cal.2d 187

Jones v. State Bar (1946) 29 Cal.2d 181

In re Gaffney (1946) 28 Cal.2d 761

Preston v. State Bar (1946) 28 Cal.2d 643

In re Andreani (1939) 14 Cal.2d 736

In re Bodell (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 459

In the Matter of Brown (Review Dept. 1993) 2 Cal. State Bar Ct. Rptr. 309, 320

Standards same for disbarred and resigned with charges pending

In re Bodell (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 459

Tax delinquencies not involving concealed assets

In re Bodell (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 459

Testimony by members given in support of reinstatement is governed by rule 1-200(B) of the Rules of Professional Conduct

In re Bodell (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 459

REPORTING FEES [See Advancement of funds.]

Failure to pay for contracted services

CAL 1979-48

RESIGNATION [See Disabled lawyer. Disbarment. Suspension.]

Business and Professions Code section 6180, et seq.

As active member of State Bar

Business and Professions Code sections 6004-6007

Duties of resigned attorney

Rule 955, California Rules of Court

Resignation requires passage of responsibility examination as a condition of reinstatement, not a condition precedent to filing of a petition for reinstatement

In the Matter of Sheppard (Review Dept. 1999) 4 Cal. State Bar Ct. Rptr. 91

Resignation with disciplinary charges requires passage of professional responsibility examination and demonstration of rehabilitation, present moral qualifications, and present learning and ability in the general law as conditions of reinstatement

In the Matter of Sheppard (Review Dept. 1999) 4 Cal. State Bar Ct. Rptr. 91

With disciplinary charges pending

reimbursement of Client Security Fund is a condition of reinstatement, not a condition precedent to filing of petition for reinstatement

In the Matter of Jaurequi (Review Dept. 1999) 4 Cal. State Bar Ct. Rptr. 56

RESTRICTIVE COVENANT BETWEEN LAWYERS

Rule 2-109, Rules of Professional Conduct (operative until May 26, 1989)

Rule 1-500, Rules of Professional Conduct (operative as of May 27, 1989)

Howard v. Babcock (1993) 6 Cal.4th 409 [7 Cal.Rptr.2d 687]

CAL 1988-104, LA 480 (1995), LA 468 (1992), LA 460 (1990), LA 445 (1987)

Business and Professions Code section 16602, applicability

Howard v. Babcock (1993) 6 Cal.4th 409

Contract term compelling departing partners to forfeit a significant sum of money should they decide to compete with their former partners not contrary per se to public policy

Haight, Brown & Bonesteel v. Superior Court (1991) 234 Cal.App.3d 963

Contract term providing that if an attorney leaves the firm and takes clients, then 80% of the subsequent fees shall be paid to the firm may be enforceable

Moncharsh v. Heily & Blase (1992) 3 Cal.4th 1

Covenant not to compete

Howard v. Babcock (1993) 6 Cal.4th 409 [7 Cal.Rptr. 2d 687]

Matull & Associates v. Cloutier (1987) 194 Cal.App.3d 1049 LA 480 (1995)

Law Partners' Agreement imposing reasonable toll on departing partners who compete with firm is enforceable

Howard v. Babcock (1993) 6 Cal.4th 409 [7 Cal.Rptr.2d 687]

In the Matter of Respondent X (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 592

RETAINER [See Client trust account, Non-refundable retainer.

Contract for employment. Fee.]

Rule, 3-700(D)(2), California Rule of Professional Conduct

Securities and Exchange Commission v. Interlink Data Network (9th Cir. 1996) 77 F.3d 1201

T & R Foods, Inc. v. Rose (1996) 47 Cal.App.4th Supp. 1 [56 Cal.Rptr.2d 41]

In re Montgomery Drilling Co. (E.D. Cal. 1990) 121 B.R. 32

Katz v. Workers' Compensation Appeals Board (1981) 30 Cal.3d 353, 356 at fn. 2 [178 Cal.Rptr. 815]

Baranowski v. State Bar (1979) 24 Cal.3d 153, 163

In the Matter of Phillips (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 315

In the Matter of Fonte (Review Dept. 1994) 2 Cal. State Bar Ct. Rptr. 752

SF 1980-1

RULE AGAINST PERPETUITIES

Lucas v. Hamm (1961) 56 Cal.2d 583, 592 [15 Cal.Rptr. 821]

RULES OF PRACTICE BEFORE THE STATE BAR COURT

RULES OF PRACTICE BEFORE THE STATE BAR COURT

Text is located in:

Deerings Annotated California Codes, Rules of Court, State Bar Rules, and in
West's Annotated California Codes, Court Rules, vol. 23, pt 3

Text available through State Bar's home page:

<http://www.calbar.ca.gov>

Text may be obtained from:

State Bar Court
State Bar of California
180 Howard Street
San Francisco, California 94105
Telephone: (415) 538-2030

RULES OF PROCEDURE OF THE STATE BAR OF CALIFORNIA

Text is located in:

Deerings Annotated California Codes, Rules of Court, State Bar Rules, and in
West's Annotated California Codes, Court Rules, vol. 23, pt 3

Text available through State Bar's home page:

<http://www.calbar.ca.gov>

Text may be obtained from:

State Bar Court
State Bar of California
180 Howard Street
San Francisco, California 94105
Telephone: (415) 538-2030

Rule 205 [requirement of motion for relief from actual suspension]
not a valid reason for failure to recommend a specific period
of stayed suspension

In the Matter of Bailey (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 220

recommendation extending actual suspension until
compliance with rule 205 must state definite period of actual
suspension and, if appropriate, stayed suspension

In the Matter of Stansbury (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 103

Rule 220(b) [requirement to file a decision within 90 days of
submission]

neither mandatory nor jurisdictional, but directory

In the Matter of Petilla (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 231

Rule 262 [dismissal]

In the Matter of Silverton (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 252

Rule 270(c) [disclosure of private reproval]

Mack v. State Bar of California (2001) 92 Cal.App.4th 957
[112 Cal.Rptr.2d 341]

Rule 283(b) [costs recoverable by an exonerated attorney]

In the Matter of Wu (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 263

Rule 290 [completion of Ethics School if discipline is imposed]
may be required as a probation condition

In the Matter of Bailey (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 220

may be required at the time of a ruling on a motion to end
actual suspension

In the Matter of Bailey (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 220

Rule 300 Interlocutory Review

In the Matter of Terrones (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 289

In the Matter of Sheppard (Review Dept. 1999) 4 Cal. State Bar Ct. Rptr. 91

probation modification rulings

In the Matter of Taggart (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 302

Rule 301(a)(2) [trial transcript required for review]

In the Matter of Wu (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 263

Rule 305 [independent de novo review]

In the Matter of Taggart (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 302

Rule 305(a) Great Weight to Credibility Determinations by
Hearing Judge

In the Matter of Lais (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 112

In the Matter of Lantz (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 126

Rule 561 [standard of proof in probation revocation,
preponderance of evidence]

In the Matter of Taggart (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 302

Rule 634 Standard 1.4(c)(ii) Proceeding, Petitioner's Burden of
Proof, Preponderance of the Evidence

In the Matter of Terrones (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 289

Rule 639 Standard 1.4(c)(ii) Proceeding, Review Under Rule
300, Abuse of Discretion or Error of Law

In the Matter of Terrones (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 289

Rule 655 Reinstatement

In the Matter of Sheppard (Review Dept. 1999) 4 Cal. State Bar Ct. Rptr. 91

Rules 271 and 290

examined in connection with Section 6078 of Business and
Professions Code and Rule 956 of California Rules of Court

In the Matter of Respondent Z (Review Dept. 1999) 4 Cal. State Bar Ct. Rptr. 85

RULES OF PROFESSIONAL CONDUCT [The full text of the
rules are reprinted in part I A above. The annotated Rules of
Professional Conduct are found in:

Deerings Annotated California Codes, Rules of Court, State Bar
Rules, and in

West's Annotated California Codes, Court Rules, vol. 23, pt 3,
p. 319]

Text available through State Bar's home page:

<http://www.calbar.ca.gov>

CAVEAT: Subject headings must be consulted for cases
interpreting particular Rules of Professional Conduct in addition to
rule headings.

Duty to abide with

Standing Com. on Dis. of United States v. Ross (9th Cir.
1984) 735 F.2d 1168, 1170

attorney ethics rules do not apply to non-lawyers and law
entities

Channel Lumber Co. Inc. v. Simon (2000) 78
Cal.App.4th 1222 [93 Cal.Rptr.2d 482]

attorney's conduct evaluated by the Rules of Professional
Conduct in effect at the time of the misconduct

Image Technical Services v. Eastman Kodak (C.D.
1993) 820 F.Supp. 1212

Dudugjian v. State Bar (1991) 52 Cal.3d 1092, 1094, fn.
1 [278 Cal.Rptr. 90]

King v. State Bar (1990) 52 Cal.3d 307, 311, fn.4 [276
Cal.Rptr. 176]

Kelson v. State Bar (1976) 17 Cal.3d 1, 4 fn. 1

Jackson v. State Bar (1975) 15 Cal.3d 372, 374, fn. 1
[124 Cal.Rptr. 185, 540 P.2d 25]

Tomlinson v. State Bar (1975) 13 Cal.3d 567, 569 fn. 1
[119 Cal.Rptr. 335, 531 P.2d 1119]

In the Matter of Whitehead (Review Dept. 1991) 1 Cal.
State Bar Ct. Rptr. 354

In the Matter of Burckhardt (Review Dept. 1991) 1 Cal.
State Bar Ct. Rptr. 343

civil case

Western Continental Operating Co. v. Natural Gas Corp.
(1989) 212 Cal.App.3d 752 [261 Cal.Rptr. 100]

Cazares v. Saenz (1989) 208 Cal.App.3d 279 [256
Cal.Rptr. 209]

CURRENT RULES OF PROFESSIONAL CONDUCT

Government attorneys
applicability to
People v. Christian (1996) 41 Cal.App.4th 986 [48 Cal.Rptr.2d 867]
In re Lee G. (1991) 1 Cal.App.4th 17, 34 [1 Cal.Rptr.2d 375]
Civil Service Commission v. Superior Court (1984) 163 Cal.App.3d 70, 84
CAL 2002-158

Interpretation of
rules conclusively set ethical duties
David Welch Company v. Erskine and Tully (1988) 203 Cal.App.3d 884 [250 Cal.Rptr. 339]
-effect of expert testimony
David Welch Company v. Erskine and Tully (1988) 203 Cal.App.3d 884 [250 Cal.Rptr. 339]

Judicial notice of
Evidence Code section 451

Jurisdiction
California courts non-disciplinary jurisdiction over non-resident California attorney
Crea v. Busby (1996) 48 Cal.App.4th 509 [555 Cal.Rptr.2d 513]
Edmunds v. Superior Court (1994) 24 Cal.App.4th 221
over out-of-state arbitration representatives
Code of Civil Procedure section 1282.4

Purpose of, generally
Allen v. Academic Games League of America (C.D. 1993) 831 F. Supp. 785
Elan Transdermal Limited v. Cygnus Therapeutic Systems (N.D. 1992) 809 F.Supp. 1383
Zitney v. State Bar (1966) 64 Cal.2d 787, 793 [51 Cal.Rptr. 825]
Ross v. Creel Printing & Publishing Co. (2002) 100 Cal.App.4th 736 [122 Cal.Rptr.2d 787]

CURRENT RULES OF PROFESSIONAL CONDUCT (operative May 27, 1989)

Rule 1-100 Rules of Professional Conduct, In General.
Bankruptcy of Mortgage & Realty Trust (1996) 196 B.R. 740
Ross v. Creel Printing & Publishing Co. (2002) 100 Cal.App.4th 736 [122 Cal.Rptr.2d 787]
City National Bank v. Adams (2002) 96 Cal.App.4th 315 [117 Cal.Rptr.2d 125]
Zaheri Corp. v. New Motor Vehicle Board (Mitsubishi Motor Sales of America) (1997) 55 Cal.App.4th 1305 [64 Cal.Rptr.2d 705]
Stanley v. Richmond (1995) 35 Cal.App.4th 1070 [41 Cal.Rptr.2d 768]
Santa Clara County Counsel Attorneys Assn. v. Woodside (1994) 7 Cal.4th 525

Consideration of ethical rules of other jurisdictions
People v. Donaldson (2001) 93 Cal.App.4th 916 [113 Cal.Rptr.2d 548]

Duty to abide with
Central District of California has adopted the "State Bar Act, the Rules of Professional Conduct of the State Bar of California" as the standard of professional conduct in the district
San Gabriel Basin Water Quality Authority v. Aerojet-General Corp. (C.D. Cal. 2000) 105 F.Supp.2d 1095

Purpose of the rules
protection of the public and promotion of confidence in the legal profession
Chambers v. Kay (2002) 29 Cal.4th 142 [126 Cal.Rptr.2d 536]

Willful violation is disciplinary offense
In re Carlos (C.D. Cal. 1998) 227 B.R. 535 [3 Cal.Bankr.Ct.Rep. 80]
"associate" defined
Sims v. Charness (2001) 86 Cal.App.4th 884 [103 Cal.Rptr.2d 619]
CAL 2001-155, CAL 1998-152, CAL 1996-145, CAL 1997-149, CAL 1997-148, LA 504 (2000), LA 470 (1992) SD 1993-1, SD 1989-4

Rule 1-110 Disciplinary Authority of the State Bar.
In the Matter of Johnson (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 179
In the Matter of Posthuma (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 813
In the Matter of Meyer (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 697

Rule 1-120 Assisting, Soliciting, or Inducing Violations.
CAL 1993-128, CAL 1992-126

Rule 1-200 False Statement Regarding Admission to the Bar.
In re Bodell (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 459

Rule 1-300 Unauthorized Practice of Law.
In re Carlos (C.D. Cal. 1998) 227 B.R. 535 [3 Cal.Bankr.Ct.Rep. 80]
CAL 2001-155

Rule 1-310 Forming a Partnership With a Non-Lawyer.
In the Matter of Phillips (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 315
CAL 1999-154, CAL 1995-142, CAL 1995-141, LA 488

Rule 1-320 Financial Arrangements With Non-Lawyers.
In re Carlos (C.D. Cal. 1998) 227 B.R. 535 [3 Cal.Bankr.Ct.Rep. 80]
In re Kreitenberg (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 469
In the Matter of Phillips (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 315
In the Matter of Bragg (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 615
CAL 1999-154, CAL 1997-148, CAL 1995-143, CAL 1995-142, CAL 1995-141, CAL 1992-126
LA 488, LA 461, LA 457, SD 1989-2

Rule 1-400 Advertising and Solicitation.
In re Morse (1995) 11 Cal.4th 184 [44 Cal.Rptr.2d 620]
Rubin v. Green (1993) 4 Cal.4th 1187
In the Matter of Phillips (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 315
In the Matter of Kroff (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 838
CAL 2001-155, CAL 1999-154, CAL 1997-150, CAL 1997-148, CAL 1995-144, CAL 1995-143, CAL 1995-142, CAL 1995-141, CAL 1993-129
LA 494 (1998) LA 474, SD 1996-1, SD 1992-3, OR 93-001
Standard 4
SD 2000-1
Standard 5
In re McKesson HBOC, Inc. Securities Litigation (N.D. Cal. 2001) 126 F.Supp.2d 1239
Standard 8
People ex rel. Dept. of Corporations v. Speedee Oil Change Systems (1999) 20 Cal.4th 1135 [86 Cal.Rptr.2d 816]

Rule 1-500 Agreements Restricting a Member's Practice.
LA 480 (1995), LA 468 (1992), LA 460 (1990)
In the Matter of Respondent X (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 592

Rule 1-600 Legal Service Programs.
Gafcon, Inc. v. Ponsor & Associates (2002) 98 Cal.App.4th 1388 [120 Cal.Rptr.2d 392]
CAL 1997-148, CAL 1992-126, LA 500 (1999)

Rule 1-700 Member as Candidate for Judicial Office

Rule 1-710 Member as Temporary Judge, Referee, or Court-Appointed Arbitrator

Rule 2-100 Communication With a Represented Party.
United States v. Talao (9th Cir. 2000) 222 F.3d 1133
Graham v. U.S. (9th Cir. 1996) 96 F.3d 446
Truitt v. Superior Court (1997) 59 Cal.App.4th 1183
Jorgensen v. Taco Bell (1996) 50 Cal.App.4th 1398 [58 Cal.Rptr.2d 178]
Jackson v. Ingersoll-Rand (1996) 42 Cal.App.4th 1163
Continental Insurance Company v. Superior Court (1995) 32 Cal.App.4th 94 [37 Cal.Rptr.2d 843]

CURRENT RULES OF PROFESSIONAL CONDUCT

- In the Matter of Wyshak (Review Dept. 1999) 4 Cal. State Bar Ct. Rptr. 70
- *In the Matter of Twitty (Review Dept. 1994) 2 Cal. State Bar Ct. Rptr. 664
- CAL 1996-145, CAL 1993-133, CAL 1993-131, CAL 1991-125, CAL 1989-110, LA 508 (2002), LA 502 (1999), LA 490, LA 487, LA 472
- Rule 2-200 Financial Arrangements Among Lawyers.
- Sims v. Charness (2001) 86 Cal.App.4th 884 [103 Cal.Rptr.2d 619]
- Margolin v. Shemaria (2000) 85 Cal.App.4th 891 [102 Cal.Rptr.2d 502]
- Scolinos v. Kolts (1995) 37 Cal.App.4th 635 [44 Cal.Rptr.2d 31]
- LA 503 (2000), LA 486, LA 473 (1993), LA 470 (1992), LA 467 (1992)
- Association of outside counsel not a basis for exemption from 2-200 requirements
- Chambers v. Kay (2002) 29 Cal.4th 142 [126 Cal.Rptr.2d 536]
- Purpose of the rule
- protection of the public and promotion of confidence in the legal profession
- Chambers v. Kay (2002) 29 Cal.4th 142 [126 Cal.Rptr.2d 536]
- Rule 2-300 Sale or Purchase of a Law Practice of a Member, Living, or Deceased.
- LA 475 (1993)
- Rule 2-400 Discriminatory Conduct in a Law Practice (operative March 1, 1994)
- Rule 3-110 Failing to Act Competently.
- In re O.S. (2002) 102 Cal.App.4th 1402 [126 Cal.Rptr.2d 571]
- In re Gadda (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 416
- In re Valinoti (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 498
- In the Matter of Bailey (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 220
- In the Matter of Dahlz (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 269
- In the Matter of Phillips (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 315
- In the Matter of Johnson (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 179
- In the Matter of Lantz (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 126
- In the Matter of Lais (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 907
- In the Matter of Doran (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 871
- In the Matter of Greenwood (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 831
- In the Matter of Aulakh (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 690
- In the Matter of Hinden (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 657
- In the Matter of Bragg (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 615
- In the Matter of Sullivan, II (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 608
- In the Matter of Kaplan (Review Dept. 1996) 3 Cal. State Bar Ct. Rptr. 547
- In the Matter of Riley (Review Dept. 1994) 3 Cal. State Bar Ct. Rptr. 91
- Negligent legal representation by itself does not prove misconduct
- In the Matter of Torres (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 138
- CAL 2002-158, CAL 1997-150, CAL 1992-126
- LA 504 (2000), LA 502 (1999), LA 488 (1996), LA 471 (1992)
- SD 1997-2
- Rule 3-200 Prohibited Objectives of Employment.
- Simonian v. Patterson (1994) 27 Cal.App.4th 773 [32 Cal.Rptr.2d 722]
- In the Matter of Lais (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 112
- CAL 1996-146, LA 502 (1999)
- Rule 3-210 Advising the Violation of Law.
- In the Matter of Fandey (Review Dept. 1994) 2 Cal. State Bar Ct. Rptr. 767
- CAL 1996-146, LA 502 (1999), SD 1993-1
- Rule 3-300 Avoiding Adverse Interests.
- In re Tallant (9th Cir. 1998) 218 B.R. 58
- Santa Clara County Counsel Attorneys Assn. v. Woodside (1994) 7 Cal.4th 525
- Passante, Jr. v. McWilliam (1997) 53 Cal.App.4th 1240 [62 Cal.Rptr.2d 298]
- Mayhew v. Benninghoff, III (1997) 53 Cal.App.4th 1365 [62 Cal.Rptr.2d 27]
- In re Peavey (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 483
- In re Gillis (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 387
- In the Matter of Silverton (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 252
- In the Matter of Priamos (1998) 3 Cal. State Bar Ct. Rptr. 824
- In the Matter of Fonte (Review Dept. 1994) 2 Cal. State Bar Ct. Rptr. 752
- CAL 2002-159, CAL 1999-154, CAL 1995-140, CAL 1995-141, CAL 1994-135, CAL 1994-136, CAL 1993-130, CAL 1989-116
- LA 507, LA 496 (1998), LA 492 (1998), LA 477
- OR 93-002
- SD 1992-1, SD 1989-2, SF 1997-1
- Rule 3-310 Avoiding the Representation of Adverse Interests.
- In re Rindlisbacher (9th Cir. BAP 1998) 225 B.R. 180, fn. 4 [33 Bankr.Ct.Dec. 258, 2 Cal.Bankr.Ct.Rep. 43]
- In re S.S. Retail Stores Corp. (9th Cir. 2000) 216 F.3d 882 [36 Bankr.Ct.Dec. 79]
- Bankruptcy of Mortgage & Realty Trust (1996) 195 B.R. 740
- San Gabriel Basin Water Quality Authority v. Aerojet-General Corp. (C.D. Cal. 2000) 105 F.Supp.2d 1095
- *GATX/Airlog Company v. Evergreen International Airlines, Inc. (1998) 8 F.Supp.2d 1182
- Image Technical Services v. Eastman Kodak Co. (9th Cir. 1998) 136 F.3d 1354
- People ex rel. Dept. of Corporations v. Speedee Oil Change Systems (1999) 20 Cal.4th 1135 [86 Cal.Rptr.2d 816]
- American Airlines v. Sheppard Mullin, Richter & Hampton (2002) 96 Cal.App.4th 1017 [117 Cal.Rptr.2d 685]
- Benasra v. Mitchell Silberberg & Knupp (2002) 96 Cal.App.4th 96 [116 Cal.Rptr.2d 644]
- City National Bank v. Adams (2002) 96 Cal.App.4th 315 [117 Cal.Rptr.2d 125]
- Frazier v. Superior Court (Ames) (2002) 97 Cal.App.4th 23 [118 Cal.Rptr.2d 129]
- In re Marriage of Friedman (2002) 100 Cal.App.4th 65 [122 Cal.Rptr.2d 412]
- Adams v. Aerojet-General Corp. (2001) 86 Cal.App.4th 1324 [104 Cal.Rptr.2d 116]
- Estate of Wright (2001) 90 Cal.App.4th 228 [108 Cal.Rptr.2d 572]
- In re Marriage of Egedi (2001) 88 Cal.App.4th 17 [105 Cal.Rptr.2d 518]
- Pringle v. La Chappelle (1999) 73 Cal.App.4th 1000 [87 Cal.Rptr.2d 90]
- State Farm Mutual Automobile Insurance Company v. Federal Insurance Company (1999) 72 Cal.App.4th 1422 [86 Cal.Rptr.2d 20]
- Gilbert v. National Corporation for Housing Partnerships (1999) 71 Cal.App.4th 1240 [84 Cal.Rptr. 204]
- Strasbourg, Pearson, Tulcin, Wolff, Inc., et al. v. Wiz Technology (1999) 69 Cal.App.4th 1399 [82 Cal.Rptr.2d 326]

CURRENT RULES OF PROFESSIONAL CONDUCT

- Mosier v. Southern California Physicians Insurance Exchange (1998) 63 Cal.App.4th 1022 [74 Cal.Rptr.2d 550]
Forrest v. Baeza (1997) 58 Cal.App.4th 65 [67 Cal.Rptr.2d 857]
People v. Pastrano (1997) 52 Cal.App.4th 610 [60 Cal.Rptr.2d 620]
People v. Christian (1996) 41 Cal.App.4th 986 [48 Cal.Rptr.2d 867]
Metro-Goldwyn-Mayer, Inc. v. Tracinda Corp. (1995) 36 Cal.App.4th 1832 [43 Cal.Rptr.2d 327]
Stanley v. Richmond (1995) 35 Cal.App.4th 1070 [41 Cal.Rptr.2d 768]
Zador Corp. v. Kwan (1995) 31 Cal.App.4th 1285 [37 Cal.Rptr.2d 754]
Flatt v. Superior Court (1994) 9 Cal.4th 275 [36 Cal.Rptr.2d 537]
Santa Clara County Counsel Attorneys Assn. v. Woodside (1994) 7 Cal.4th 525
In re Valinoti (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 498
In the Matter of Wyshak (Review Dept. 1999) 4 Cal State Bar Ct. Rptr. 70
In the Matter of Fonte (Review Dept. 1994) 2 Cal. State Bar Ct. Rptr. 752
 80 Ops. Cal. Atty. Gen. 36 (2/7/97; No. 96-301)
 CAL 2002-159, CAL 2002-158, CAL 2001-156, CAL 1999-154, CAL 1999-153, CAL 1998-152, CAL 1997-148, CAL 1995-141, CAL 1995-140, CAL 1995-139, CAL 1993-138, CAL 1993-129, CAL 1993-128, CAL 1992-126, CAL 1989-116, CAL 1989-113
 LA 507, LA 506, LA 502 (1999), LA 501 (1999), LA 500 (1999), LA 492 (1998), LA 471 (1992), LA 468 (1992), LA 465 (1991), LA 463, LA 461, LA 462, LA 459 (1990), LA 379
 OR 95-002, OR 94-003
 SD 1997-2, SD 1990-3, SD 1989-4
- Rule 3-320 Relationship With Other Party's Lawyer.
 SD 1989-4
 34 Santa Clara L. Rev. 1157 (1994)
- Rule 3-400 Limiting Liability to Client.
In the Matter of Fonte (Review Dept. 1994) 2 Cal. State Bar Ct. Rptr. 752
 CAL 1992-127, CAL 1989-116
 LA 502 (1999), LA 489(1997), LA 471 (1992)
- Rule 3-500 Communication.
First Interstate Bank of Arizona v. Murphy, Weir & Butler (9th Cir. 2000) 210 F.3d 983
In re O.S. (2002) 102 Cal.App.4th 1402 [126 Cal.Rptr.2d 571]
In re Gadda (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 416
In re Valinoti (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 498
In the Matter of Yagman (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 788
In the Matter of Kaplan (Review Dept. 1996) 3 Cal. State Bar Ct. Rptr. 547
 CAL 1998-152, CAL 1997-151, CAL 1994-135, LA 506, LA 473 (1993), SD 2001-1
- Rule 3-510 Communication of Settlement Offer.
In the Matter of Yagman (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 788
 CAL 1994-136, 1994-135
- Rule 3-600 Organization as Client
Pringle v. La Chappelle (1999) 73 Cal.App.4th 1000 [87 Cal.Rptr.2d 90]
Morrison Knudsen Corp. v. Hancock, Rothert & Bunshoft, LLP (1999) 69 Cal.App.4th 223 [81 Cal.Rptr.2d 425]
Brooklyn Navy Yard Cogeneration Partners v. Superior Court (1997) 60 Cal.App.4th 248 [70 Cal.Rptr.2d 419]
Forrest v. Baeza (1997) 58 Cal.App.4th 65
Metro-Goldwyn-Mayer, Inc. v. Tracinda Corp. (1995) 36 Cal.App.4th 1832 [43 Cal.Rptr.2d 327]
*Ronson v. Superior Court (1994) 24 Cal.App.4th 94
Responsible Citizens v. Superior Court (1993) 16 Cal.App.4th 1717
- *Matter of Jennings (Review Dept. 1995) 3 Cal. State Bar Ct. Rptr. 337
 CAL 2001-156, CAL 1999-153, CAL 1994-137
- Rule 3-700 Termination of Employment
In re Gadda (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 416
In re Valinoti (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 498
In the Matter of Bailey (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 220
In the Matter of Dahlz (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 269
In the Matter of Phillips (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 315
In the Matter of Johnson (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 179
 disclosure of confidences at motion for withdrawal
Manfredi & Levine v. Superior Court (1998) 66 Cal.App.4th 1128 [78 Cal.Rptr. 494]
Cal Pak Delivery, Inc. v. United Parcel Service (1997) 52 Cal.App.4th 1 [60 Cal.Rptr.2d 207]
Ramirez v. Sturdevant (1994) 21 Cal.App.4th 904, 915 [26 Cal.Rptr.2d 554]
In the Matter of Lantz (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 126
In the Matter of Lais (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 907
In the Matter of Doran (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 871
In the Matter of Greenwood (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 831
In the Matter of Aulakh (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 690
In the Matter of Hinden (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 657
In the Matter of Sullivan, II (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 608
In the Matter of Kaplan (Review Dept. 1996) 3 Cal. State Bar Ct. Rptr. 547
In the Matter of Dale K. Nees (Review Dept. 1996) 3 Cal. State Bar Ct. Rptr. 547
 duty to release to client mental health care records is not altered by written warning from mental health care provider that disclosure may be detrimental to client
 LA 509 (2002)
 CAL 2001-157, CAL 1999-153, CAL 1994-134, CAL 1992-127, CAL 1989-111
 LA 504 (2000), LA 502 (1999), LA 498 (1999), LA 493, LA 491, LA 471, LA 462
 SD 2001-1, SD 1997-1, SD 1990-2
- Rule 4-100 Preserving Identity of Funds and Property of a Client.
Hooser v. Superior Court (2001) 84 Cal.App.4th 997 [101 Cal.Rptr.2d 341]
T & R Foods, Inc. v. Rose (1996) 47 Cal.App.4th Supp. 1 [56 Cal.Rptr.2d 41]
Securities and Exchange Commission v. Interlink Data Network of Los Angeles (9th Cir. 1996) 77 F.3d 1201
In re Montgomery Drilling Co. (E.D. Cal. 1990) 121 B.R. 32
In the Matter of Phillips (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 315
In the Matter of Johnson (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 179
In the Matter of Lantz (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 126
In the Matter of Moriarty (Review Dept. 1999) 4 Cal. State Bar Ct. Rptr. 9
In the Matter of Lais (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 907
In the Matter of Silver (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 902
In the Matter of Doran (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 871

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In the Matter of Kroff (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 838

In the Matter of Yagman (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 788

In the Matter of Feldsott (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 754

In the Matter of Berg (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 725

In the Matter of Steele (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 708

In the Matter of Aulakh (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 690

In the Matter of Kaplan (Review Dept. 1996) 3 Cal. State Bar Ct. Rptr. 547

In the Matter of Broderick (Review Dept. 1994) 3 Cal. State Bar Ct. Rptr. 138

In the Matter of Riley (Review Dept. 1994) 3 Cal. State Bar Ct. Rptr. 91

CAL 2002-159, CAL 2001-157, LA 485 (1995), LA 484 (1995)

LA 475 (1993)

OR 99-002

Rule 4-200 Fees for Legal Services

Shaffer v. Superior Court (1995) 33 Cal.App.4th 993 [39 Cal.Rptr.2d 506]

Ramirez v. Sturdevant (1994) 21 Cal.App.4th 904 [26 Cal.Rptr.2d 554]

In the Matter of Bailey (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 220

In the Matter of Phillips (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 315

In the Matter of Silverton (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 252

In the Matter of Lantz (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 126

In the Matter of Kroff (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 838

In the Matter of Yagman (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 788

In the Matter of Berg (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 725

elder abuse cases

-W & I Code § 15657.1 incorporates Rule 4-200 by reference

Conservatorship of Levitt (2001) 93 Cal.App.4th 544 [113 Cal.Rptr.2d 294]

CAL 1994-136, CAL 1994-135, CAL 1988-101

LA 507, LA 505 (2000), LA 499 (1999), LA 479 (1994), LA 467 (1992), LA 458 (1990)

OR 99-001

SF 1999-1

Rule 4-210 Payment of Personal or Business Expenses Incurred by or for a Client.

Boccardo v. Commissioner of Internal Revenue (9th Cir. 1995) 56 F.3d 1016

CAL 1996-147, LA 499 (1999), LA 495 (1998), SF 1989-1

Rule 4-300 Purchasing Property at a Foreclosure or a Sale Subject to Judicial Review.

LA 455

Rule 4-400 Gifts From Client.

LA 462

Rule 5-100 Threatening Criminal, Administrative, or Disciplinary Charges.

Ross v. Creel Printing & Publishing Co. (2002) 100 Cal.App.4th 736 [122 Cal.Rptr.2d 787]

CAL 1991-124, CAL 1989-106, CAL 1983-73

LA 469 (1992)

Rule 5-110 Performing the Duty of Member in Government Service.

CAL 1989-106, CAL 1991-24(I)

Rule 5-120 Trial Publicity (operative October 1, 1995).

Rule 5-200 Trial Conduct.

Bryan v. Bank of America (2001) 86 Cal.App.4th 185 [103 Cal.Rptr.2d 148]

Hanson v. Superior Court of Siskiyou County (2001) 91 Cal.App.4th 75 [109 Cal.Rptr.2d 782]

Datig v. Dove Books, Inc. (1999) 73 Cal.App.4th 964 [87 Cal.Rptr.2d 719]

In the Matter of Moriarty (Review Dept. 1999) 4 Cal. State Bar Ct. Rptr. 9

In the Matter of Jeffers (Review Dept. 1994) 3 Cal. State Bar Ct. Rptr. 211

LA 504 (2000), LA 502 (1999), LA 497 (1999), LA 482 (1995), LA 464 (1991)

OR 95-001, OR 94-003, SD 1990-2

Rule 5-210 Member as Witness.

Bankruptcy of Mortgage & Realty Trust (1996) 195 B.R. 740

Smith, Smith & Kring v. Superior Court (1997) 60 Cal.App.4th 573 [70 Cal.Rptr.2d 507]

Case law articulates an exception not found in Rule 5-210 permitting an attorney to act as a witness where the evidence is otherwise not available

People v. Donaldson (2001) 93 Cal.App.4th 916 [113 Cal.Rptr.2d 548]

CAL 1993-133

Rule 5-220 Suppression of Evidence.

R.S. Creative Inc. v. Creative Cotton Ltd., et al. (1999) 75 Cal.App.4th 486 [89 Cal.Rptr.2d 353]

LA 497 (1999), LA 466 (1991)

Rule 5-300 Contact With Officials.

Zaheri Corp. v. New Motor Vehicle Board (Mitsubishi Motor Sales of America) (1997) 55 Cal.App.4th 1305 [64 Cal.Rptr.2d 705]

OR 94-001

Rule 5-310 Prohibited Contact With Witnesses.

CAL 1997-149

Rule 5-320 Contact With Jurors.

PRIOR RULES OF PROFESSIONAL CONDUCT (operative January 1, 1975 until May 26, 1989)

Rule 1-100 Rules of Professional Conduct, In General. [See Admission to the bar.]

CAL 1975-33

SD 1977-2, SD 1974-6, SD 1972-17, SF 1977-2, SF 1977-1 LA 342 (1973)

Rule 1-101 Maintaining Integrity and Competence of the Legal Profession. [See Admission to the bar.]

Rule 2-101 Professional Employment. [See Advertising. Business activity. Solicitation.]

Business and Professions Code section 6105

CAL 1988-105, CAL 1987-91, CAL 1986-90, CAL 1982-68, CAL 1982-67, CAL 1982-66, CAL 1982-65, CAL 1981-61,

CAL 1981-60, CAL 1981-56, CAL 1980-54

SF 1980-1, SF 1979-1

LA 449 (1988), LA 446 (1987), LA 434 (1984), LA 430 (1984), LA 423 (1983), LA 421 (1983), LA 413 (1983), LA

419 (1983), LA 404 (1983), LA 392 (1983), LA 401 (1982), LA 385 (1980), LA 384 (1980), LA 381 (1979)

subsection (B) & (C)

CAL 1983-75

Rule 2-102 Legal Service Programs. [See Group legal services. Legal services.]

CAL 1987-91, CAL 1982-65

LA 444 (1987), LA 401 (1982)

SD 1983-6

Rule 2-105 Advising Inquirers Through the Media on Specific Legal Problems. [See Advising inquirers through media. Broadcasting.]

CAL 1976-40, CAL 1975-32

LA 336 (1973), LA 326 (1972), LA 311 (1969)

SD 1976-4, SD 1976-2, SD 1974-16, SD 1969-6

PRIOR RULES OF PROFESSIONAL CONDUCT

Rule 2-107 Fees for Legal Services. [See Fees.]

Glendora Community Redevelopment Agency v. Demeter (1984) 155 Cal.App.3d 465, 474 [202 Cal.Rptr. 389]
Roa v. Lodi Medical Group, Inc., (1982) 129 Cal.App.3d 318, 329 [181 Cal.Rptr. 41]
Estate of Effron (1981) 117 Cal.App.3d 915, 926 [173 Cal.Rptr. 93]
In re Marriage of Cueva (1978) 86 Cal.App.3d 290, 296 [149 Cal.Rptr. 918]
Baron v. Mare (1975) 47 Cal.App. 304, 312 [120 Cal.Rptr. 675]
 CAL 1987-94, CAL 1987-91, CAL 1988-12(12), CAL 1983-72, CAL 1982-67, CAL 1982-65, CAL 1980-53
 LA 431 (1984), LA 416 (1983), LA 413 (1983), LA 391 (1981), LA 370 (1978), LA 360 (1976)
 SD 1982-69, SD 1976-4, SD 1975-4

Rule 2-108 Financial Arrangements among Lawyers. [See Division of fees. Referral of legal business.]

Moran v. Harris (1982) 131 Cal.App.3d 913
Breckler v. Thaler (1978) 87 Cal.App.3d 189, 194-197 [151 Cal.Rptr. 50]
Altschul v. Sayble (1978) 83 Cal.App.3d 153 [147 Cal.Rptr. 716]
 CAL 1981-61, CAL 1975-34
 LA 423 (1983), LA 413 (1983), LA 392 (1983), LA 385 (1980)
 SD 1978-5, SD 1977-2, SD 1976-13, SD 1976-12
 SF 1981-1, SF 1977-1

Rule 2-109 Agreements Restricting the Practice of a Member of the State Bar. [See Restrictive covenant between lawyers.]

LA 468 (1992), LA 445 (1987)

Rule 2-110 Acceptance of Employment. [See Acceptance of employment.]

CAL 1982-65
 SD 1978-6

Rule 2-111 Withdrawal From Employment. [See Substitution of attorney. Termination of attorney-client relationship. Withdrawal from employment.]

Kirsch v. Duryea (1978) 21 Cal.3d 303, 310-311 [146 Cal.Rptr. 218]
Comden v. Superior Court (1978) 20 Cal.3d 906 [145 Cal.Rptr. 9]
People v. Goldstein (1982) 130 Cal.App.3d 1024, 1032 [182 Cal.Rptr. 207]
People v. Goldstein (1981) 126 Cal.App.3d 550, 556 [178 Cal.Rptr. 894]
Reich v. Club Universe (1981) 125 Cal.App.3d 965, 972 [178 Cal.Rptr. 473]
Lyle v. Superior Court (1981) 122 Cal.App.3d 470, 474 [175 Cal.Rptr. 918]
Pollack v. Lytle (1981) 120 Cal.App.3d 931, 949 [175 Cal.Rptr. 81]
Chronometrics, Inc. v. Sysgen, Inc. (1980) 110 Cal.App.3d 597, 605 [168 Cal.Rptr. 196]
Chadwick v. Superior Court (1980) 106 Cal.App.3d 108, 118 [164 Cal.Rptr. 864]
People v. Ballard (1980) 104 Cal.App.3d 757, 761 [164 Cal.Rptr. 81]
Harris v. Superior Court (1979) 97 Cal.App.3d 488, 492 [158 Cal.Rptr. 807]
Graphic Process Co. v. Superior Court (1979) 95 Cal.App.3d 43, 49 [156 Cal.Rptr. 841]
Brown v. DeRugieris (1979) 92 Cal.App.3d 895 [155 Cal.Rptr. 301]
Yorn v. Superior Court (1979) 90 Cal.App.3d 669, 676 [153 Cal.Rptr. 295]
People ex rel Younger v. Superior Court (1978) 86 Cal.App.3d 180 [150 Cal.Rptr. 156]
*People v. Superior Court (Hollenbeck) (1978) 84 Cal.App.3d 491, 500 [148 Cal.Rptr. 704]
Chaleff v. Superior Court (1977) 69 Cal.App.3d 721 [138 Cal.Rptr. 735]
Vann v. Shilleh (1975) 54 Cal.App.3d 192, 197 [126 Cal.Rptr. 401]

Academy of Calif. Opt. Inc. v. Superior Court (1975) 51 Cal.App.3d 999, 1006 [124 Cal.Rptr. 668]
People v. Guerrero (1975) 47 Cal.App.3d 441, 446 [120 Cal.Rptr. 732]
 CAL 1988-96, CAL 1983-74, CAL 1982-65, CAL 1981-64, CAL 1981-62, CAL 1979-50, CAL 1979-49
 LA 417 (1983), LA 399 (1982), LA 394 (1982), LA 371 (1977), LA 367 (1977), LA 362 (1976), LA 360 (1976), LA 356 (1976), LA 323 (1971), LA 312 (1969), LA 305 (1968)
 SD 1983-10, SD 1978-7, SD 1977-3
 SF 1984-1, SF 1980-1, SF 1979-3, SF 1977-2, SF 1976-1, SF 1975-4, SF 1973-5
 district attorney called as witness
*People v. Superior Court (1978) 84 Cal.App.3d 491 [148 Cal.Rptr. 704]
 subsection (A)(2)
 SF 1984-1

Rule 3-101 Aiding the Unauthorized Practice of Law. [See Unauthorized practice of law.]

Gafcon, Inc. v. Ponsor & Associates (2002) 98 Cal.App.4th 1388 [120 Cal.Rptr.2d 392]
In the Matter of Steele (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 708
 CAL 1988-103, CAL 1982-68, CAL 1987-91
 LA 436 (1985), LA 426 (1984), LA 413 (1983), LA 402 (1982), LA 384 (1980), LA 372 (1978), LA 359 (1976), LA 338 (1973), LA 327 (1972)
 SD 1983-12, SD 1983-7, SD 1983-4, SD 1982-69, SD 1982-68, SD 1975-18, SD 1975-13, SD 1974-23, SD 1974-21 1/2, SD 1974-17, SD 1974-7, SD 1969-6
 subsection (A)
 CAL 1984-79

Rule 3-102 Financial Arrangements With Non-lawyers. [See Division of fees.]

In the Matter of Steele (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 708
 CAL 1982-65, CAL 1981-60, CAL 1977-44, CAL 1975-34
 LA 447 (1987), LA 446 (1987), LA 444 (1987), LA 437 (1985), LA 431 (1984), LA 426 (1984), LA 423 (1983), LA 413 (1983), LA 401 (1982), LA 384 (1980), LA 372 (1978), LA 359 (1976), LA 327 (1972)
 SD 1984-1, SD 1983-12, SD 1983-7, SD 1982-69, SD 1975-18, SD 1975-13, SD 1974-7, SD 1974-23, SD 1974-21, SD 1974-17, SD 1968-5
 SF 1981-1, SF 1976-2, SF 1973-27
 subsection(A)
 CAL 1984-79
 subsection (B)
 CAL 1983-75

Rule 3-103 Forming a Partnership With a Non-lawyer [See Business activity, partnership. Misconduct, partnership. Partner, non-lawyer.]

In the Matter of Steele (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 708
 CAL 1988-103, CAL 1984-79
 LA 444 (1987), LA 426 (1984), LA 413 (1983), LA 372 (1978) LA 335 (1983), LA 372 (1978), LA 335 (1973)
 SD 1984-1, SD 1983-4, SD 1975-18, SD 1975-13, SD 1974-7, SD 1974-23, SD 1974-21, SD 1974-17, SD 1972-10, SD 1969-6

Rule 4-101 Accepting Employment Adverse to a Client. [See Acceptance of employment. Conflict of interest. Confidences of client.]

CAL 1987-91, CAL 1982-65, CAL 1981-63, CAL 1981-61, CAL 1981-57, CAL 1980-52
 LA 451 (1988), LA 450 (1988), LA 448 (1987), LA 439 (1986), LA 433 (1984), LA 406 (1982), LA 395 (1982), LA 423 (1983), LA 418 (1983), LA 413 (1983), LA 409 (1983), LA 392 (1981), LA 377 (1978), LA 366 (1977), LA 363 (1976), LA 344 (1974), LA 341 (1973)

FORMER RULES OF PROFESSIONAL CONDUCT

SD 1984-2, SD 1978-11, SD 1978-10, SD 1977-6, SD 1977-1, SD 1976-16, SD 1976-10, SD 1975-19, SD 1975-1, SD 1974-15, SD 1974-14, SD 1974-13, SD 1974-12, SD 1972-2, SD 1969-1, SD 1968-3
SF 1979-2, SF 1973-6

Rule 5-101 Avoiding Adverse Interest. [See Conflict of interest.]
CAL 1987-94, CAL 1982-65, CAL 1981-63, CAL 1981-62, CAL 1981-56, CAL 1981-55
LA 451 (1988), LA 416 (1983), LA 409 (1983), LA 407 (1982), LA 398 (1982), LA 347 (1975), LA 317 (1970)
SD 1987-2, SD 1984-1, SD 1976-14, SD 1975-19

Rule 5-102 Avoiding Representation of Adverse Interest. [See Conflict of interest.]
CAL 1988-96, CAL 1987-92, CAL 1987-91, CAL 1982-65, CAL 1981-63, CAL 1981-61, CAL 1981-59, CAL 1979-49, CAL 1977-46, CAL 1977-45, CAL 1976-41, CAL 1975-35
LA 451 (1988), LA 450 (1988), LA 449 (1988), LA 439 (1986), LA 435 (1985), LA 434 (1984), LA 432 (1984), LA 427 (1984), LA 424 (1984), LA 423 (1983), LA 418 (1983), LA 415 (1983), LA 413 (1983), LA 412 (1983), LA 409 (1983), LA 406 (1982), LA 398 (1982), LA 397 (1982), LA 395 (1982), LA 392 (1981), LA 385 (1980), LA 384 (1980), LA 383 (1979), LA 382 (1979), LA 377 (1978), LA 363 (1976), LA 353 (1976), LA 353 (1976), LA 344 (1974), LA 341 (1973), LA 333 (1973)
SD 1978-11, SD 1978-10, SD 1977-6, SD 1977-1, SD 1976-16, SD 1976-12, SD 1976-10, SD 1975-19, SD 1974-22, SD 1972-2, SD 1969-1, SD 1968-3
SF 1979-2, SF 1976-2

Rule 5-103 Purchasing Property at a Probate, Foreclosure or Judicial Sale. [See Purchasing property at a probate, foreclosure or judicial sale.]
LA 317 (1970)
See: 94 A.L.R.3d 863; 93 A.L.R.3d 1091; 93 A.L.R.3d 1070; 75 A.L.R.3d 309; 35 A.L.R.3d 674; 19 A.L.R.3d 589, 620; 98 A.L.R.2d 1237; 97 A.L.R.2d 207; 66 A.L.R. 229; 29 Hast. L.J. 841; 13 Hast. L.J. 562 Cal. L.R. 612; 29 Cal. L.R. 93, 50 J.B.C. 383, 13 U.C.D. 412, 7 Sw.R. 613

Rule 5-104 Payment of Personal Business Expenses Incurred By or For a Client. [See Advancement of funds. Costs. Expenses.]
CAL 1981-55, CAL 1976-38
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SD 1976-8
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Rule 5-105 Communication of Written Settlement Offer [See Settlement.]
In the Matter of Steele (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 708
LA 393 (1981)

Rule 6-101 Failing to Act Competently. [See Competence. Ineffective assistance of counsel. Misconduct.]
CAL 1988-96, CAL 1987-92, CAL 1987-91, CAL 1982-65, CAL 1981-64, CAL 1981-61, CAL 1979-51, CAL 1979-50, CAL 1977-45, LA 385 (1980), LA 383 (1979), LA 379 (1979), SD 1982-69

Rule 6-102 Limiting Liability to Client. [See Limiting liability to client.]
CAL 1981-56, CAL 1979-50, CAL 1977-47

Rule 7-101 Advising the Violation of Law. [See Advising violation of law.]
CAL 1986-89, CAL 1981-58, CAL 1975-33
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Rule 7-102 Performing the Duty of Member of the State Bar in Government Service. [See Attorneys of governmental agencies.]
LA 429 (1984), SD 1983-3

Rule 7-103 Communicating With an Adverse Party Represented by Counsel. [See Adverse party.]
CAL 1979-49, CAL 1977-43, CAL 1975-33
LA 442 (1987), LA 416 (1983), LA 411 (1983), LA 410 (1983), LA 397 (1982), LA 389 (1981), LA 376 (1978), LA 375 (1978), LA 369 (1977), LA 350 (1975), LA 341 (1973), LA 339 (1973), LA 334 (1973), LA 315 (1970)

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SF 1973-25

Rule 7-104 Threatening Criminal Prosecution. [See Threatening criminal prosecution.]
CAL 1983-73
SD 1984-2, SD 1978-9, SD 1978-6, SD 1978-3
SF 1975-6

Rule 7-105 Trial Conduct. [See Trial conduct.]
LA 408 (1982), LA 394 (1982)
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Rule 7-106 Communication With or Investigation of Jurors. [See Contact with jurors. Jurors, communication with or investigation of.]
CAL 1988-100, CAL 1987-95, CAL 1976-39

Rule 7-107 Contact With Witnesses. [See Witness.]
CAL 1983-74
LA(I) 1975-3
SD 1984-4
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CAL 1984-76
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CAL 1984-79

Rule 7-108 Contact With Officials. [See Contact with officials. Judges.]
LA 387 (1981), LA 343 (1974)
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Rule 8-101 Preserving Identity of Funds and Property of a Client. [See Client trust account.]
Fitzsimmons v. State Bar (1983) 34 Cal.3d 327 [193 Cal.Rptr. 896, 667 P.2d 700]
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SF 1984-1, SF 1980-1, SF 1976-2
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SF 1984-1

FORMER RULES OF PROFESSIONAL CONDUCT (effective 1928-1979)

Rule 2-101 General Prohibition Against Solicitation of Professional Employment. (Repealed by order of Supreme Court, effective April 1, 1979.)
CAL 1977-44, CAL 1977-42, CAL 1975-32
LA 346 (1975), LA 342 (1973)
SD 1976-13, SD 1976-11, SD 1976-9, SD 1976-8, SD 1976-4, SD 1976-2, SD 1975-17, SD 1975-15, SD 1975-14, SD 1975-7, SD 1975-5, SD 1975-3, SD 1975-2, SD 1974-23, SD 1974-21, SD 1974-19, SD 1974-16, SD 1974-11, SD 1974-9, SD 1974-7, SD 1974-3, SD 1973-10, SD 1973-8, SD 1973-6, SD 1972-16, SD 1972-9, SD 1969-7, SD 1969-6, SF 1976-2, SF 1975-3

Rule 2-102 Publicity in General. (Repealed by order of Supreme Court, effective April 1, 1979.)
CAL 1975-32
LA 349 (1975), LA 346 (1975), LA 328 (1972), LA 327 (1972), LA 316 (1970), LA 307 (1968)
SD 1976-11, SD 1976-9, SD 1976-7, SD 1976-4, SD 1976-2, SD 1975-17, SD 1975-14, SD 1975-7, SD 1975-5, SD 1975-3, SD 1975-2, SD 1974-23, SD 1974-21, SD 1974-19, SD 1974-7, SD 1974-11, SD 1974-10, SD 1973-8, SD 1973-10, SD 1973-4, SD 1973-14, SD 1972-16, SD 1969-6
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CAL 1982-66, CAL 1975-32, CAL 1971-24

LA 384 (1980), LA 349 (1975), LA 346 (1975), LA 345 (1975), LA 340 (1973), LA 332 (1973), LA 331 (1973), LA 328 (1972), LA 325 (1972), LA 324 (1971), LA 320 (1970), LA 310 (1969), LA 306 (1968)

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Rule 2-104 Recommendation for Professional Employment. (Repealed by order of Supreme Court, effective April 1, 1979.)

CAL 1977-44, CAL 1977-42, CAL 1975-32

LA 339 (1973), LA 336 (1973), LA 328 (1972), LA 327 (1972), LA 326 (1972), LA 322 (1971), LA 313 (1969), LA 311 (1969) SD 1978-2, SD 1976-11, SD 1976-9, SD 1976-7, SD 1976-4, SD 1976-3, SD 1976-2, SD 1976-1, SD 1975-18, SD 1975-17, SD 1975-14, SD 1975-13, SD 1975-7, SD 1975-6, SD 1975-5, SD 1975-3, SD 1975-2, SD 1974-23, SD 1974-21 1/2, SD 1974-21, SD 1974-19, SD 1974-17, SD 1974-11, SD 1974-7, SD 1973-10, SD 1973-8, SD 1973-7, SD 1973-6, SD 1972-9, SD 1969-6

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Rule 1 re: Rules of Professional Conduct, In General

CAL 1971-27, CAL 1971-24, CAL 1970-22, CAL 1970-20, CAL 1969-18, CAL 1967-8, CAL 1967-12, CAL 1967-11, CAL 1967-10, CAL 1966-5, CAL 1965-3

LA 339 (1973), LA 336 (1973), LA 335 (1973), LA 323 (1971), LA 320 (1970), LA 287 (1965)

SD 1974-6, SD 1972-17, SD 1972-2

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Rule 2 re: Advertising and Solicitation

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LA 83 (1935), LA 71 (1933), LA 70 (1933), LA 65 (1931), LA 64 (1930), LA 63 (1930), LA 62 (1930), LA 58 (1928), LA 55 (1928), LA 43 (1927), LA 42 (1927), LA 38 (1927), LA 34 (1927), LA 29 (1925), LA 28 (1925), LA 26 (1925), LA 25 (1923), LA 24 (1923), LA 17 (1922), LA 13 (1921), LA 12 (1921), LA 11 (1921), LA 8 (1920), LA 3 (1917), LA 1 (1917)

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LA 344 (1974), LA 339 (1973), LA 338 (1973), LA 335 (1973), LA 332 (1973), LA 328 (1972), LA 327 (1972), LA 325 (1972), LA 314 (1970), LA 306 (1968), LA 301 (1967), LA 299 (1966), LA 298 (1966), LA 295 (1966), LA 292 (1965), LA 286 (1965), LA 279 (1963), LA 277 (1963), LA 270 (1962), LA 262 (1959), LA 249 (1958), LA 240 (1957), LA 222 (1954), LA 194 (1952), LA 190 (1952), LA 166 (1947), LA 162 (1947), LA 156 (1945), LA 151 (1945), LA 149 (1944), LA 137 (1941), LA 135 (1941), LA 106 (1936), LA 99 (1936), LA 96 (1936), LA 89 (1935), LA 80 (1935), LA 73 (1934), LA 69 (1933), LA 61 (1930), LA 59 (1930), LA 54 (1927), LA 44 (1927), LA 36 (1927), LA 35 (1927), LA 18 (1922), LA 16 (1922), LA 12 (1921), LA 4 (1917)

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CAL 1981-62

LA 333 (1973), LA 317 (1970), LA 291 (1965), LA 262 (1959) LA 228 (1955)

SF 1973-16, SF 1973-12

Rule 5 re: Accepting Employment Adverse to Client

LA 344 (1974), LA 341 (1973), LA 333 (1963), LA 276 (1963), LA 269 (1962), LA 266 (1959), LA 262 (1959), LA 252 (1958), LA 246 (1957), LA 231 (1955), LA 217 (1953), LA 207 (1953), LA 193 (1952), LA 192 (1952), LA 144 (1943), LA 141 (1943), LA 139 (1941), LA 138 (1941), LA 130 (1940), LA 126 (1940), LA 121 (1938), LA 118 (1938), LA 117 (1937), LA 77 (1934), LA 74 (1934), LA 72 (1934), LA 52 (1927), LA 51 (1927), LA 31 (1925), LA 30 (1925), LA 27 (1925), LA 6 (1918), LA 2 (1917)

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Rule 6 re: Disclosure to a Client of Relation with Adverse Party and Interest in Subject Matter

LA 333 (1973), LA 276 (1963), LA 269 (1962), LA 252 (1958), LA 246 (1957), LA 217 (1953), LA 207 (1953), LA 193 (1952), LA 141 (1943), LA 117 (1937), LA 108 (1936), LA 72 (1934), LA 52 (1927), LA 51 (1927), LA 31 (1925), LA 27 (1925), LA 6 (1918), LA 2 (1917)

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LA 343 (1974), LA 341 (1973), LA 333 (1973), LA 298 (1966), LA 291 (1965), LA 284 (1964), LA 276 (1963), LA 273 (1962), LA 269 (1962), LA 252 (1958), LA 246 (1957), LA 219 (1954), LA 217 (1953), LA 207 (1953), LA 193 (1952), LA 170 (1949), LA 144 (1943), LA 141 (1943), LA 139 (1941), LA 138 (1941), LA 136 (1941), LA 130 (1940), LA 126 (1940), LA 121 (1938), LA 118 (1938), LA 108 (1936), LA 94 (1936), LA 72 (1934),

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LA 315 (1970), LA 234 (1956), LA 350 (1975), LA 213 (1953)
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Release from liability claim
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failure to investigate a client's domicile before filing a
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Hendrix v. Naphtal (9th Cir. 1992) 971 F.2d 398
failure to make reasonable inquiry
Warren v. Guelker (9th Cir. 1994) 29 F.3d 1386
Maisonville v. America, Inc. (9th Cir. 1990) 902 F.2d 746
frivolous complaint
Truesdell v. Southern California Permanente Medical
Group (9th Cir. 2002) 293 F.3d 1146
Gaskell v. Weir (9th Cir. 1993) 10 F.3d 626
"judge shopping"
Fields v. Gates (9th Cir. 2000) 233 F.3d 1174
meritless suit
Business Guides Inc. v. Chromatic Communications
Enterprises Inc. (1991) 498 U.S. 533 [111 S.Ct. 922]
McCrigh v. Santoki (9th Cir. 1992) 977 F.2d 590
King v. Idaho Funeral Service Association (9th Cir.
1988) 862 F.2d 744
method of calculation
Lyddon v. Geothermal Properties (9th Cir. 1993) 996
F.2d 212
Lockary v. Kayfetz (9th Cir. 1992) 974 F.2d 1166

SANCTIONS

- no inherent power to sanction when case already dismissed
Fields v. Gates (9th Cir. 2000) 233 F.3d 1174
- non-frivolous complaint
In re Keegan Management Co. (9th Cir. 1996) 78 F.3d 431
- not require payment for any activities outside the context of district court proceedings
Partington v. Gedan (9th Cir. 1991) 923 F.2d 686
- objective reasonableness standard
Unigard Security Insurance Company v. Lakewood Engineering and Manufacturing Corporation (9th Cir. 1992) 982 F.2d 363
- sanctions levied on party not the attorney for the party
Lockary v. Kayfet (9th Cir. 1992) 974 F.2d 1166
- sanctions levied only on lawyers, not law firms
Pavelic & LeFlor v. Marvel Entertainment Group (1989) 493 U.S. 120
- scope of
Lyddon v. Geothermal Properties (9th Cir. 1993) 996 F.2d 212
- signature – for purposes of Rule 11, “signature” is more than a typewritten name
Geibelhaus v. Spindrift Yachts (9th Cir. 1991) 938 F.2d. 962
- Federal Rule of Civil Procedure 37
Unigard Security Ins. Co. v. Lakewood Engineering and Manufacturing Corp. (9th Cir. 1992) 982 F.2d 363
- order imposing sanctions on attorney pursuant to Rule 37(a)(4) is not final decision and thus not immediately appealable
Cunningham v. Hamilton County, Ohio (1999) 527 U.S. 198 [119 S.Ct. 1915, L.Ed.2d 184]
- Federal Rule of Civil Procedure 41(a)(2)
Heckethorn v. Sunan Corp. (9th Cir. 1993) 992 F.2d 240
- Federal Rule of Civil Procedure 41(b)
Sanders v. Union Pacific Railroad Company (1998) 154 F.3d 1037
- Fees and costs
Sherman v. Kinetic Concepts, Inc. (1998) 67 Cal.App.4th 1152 [79 Cal.Rptr.2d 641]
In re Marriage of Gumabao (1984) 150 Cal.App.3d 572, 577 [198 Cal.Rptr. 90]
- For bad faith
 appeal taken solely for purpose of delay
United States v. Blodgett (9th Cir. 1983) 709 F.2d 608
Dana Commercial Credit v. Ferns & Ferns (2001) 90 Cal.App.4th 142 [108 Cal.Rptr.2d 278]
- courts levying sanctions must make explicit findings re an attorney’s conduct
Primus Automotive Financial Services, Inc. v. Batarsee (9th Cir. 1997) 115 F.3d 644
- failure to disclose to court and/or opposing counsel receipt of confidential information
Gomez v. Vernon (9th Cir. (Idaho) 2001) 255 F.3d 1118 [50 Fed. R. Serv.3d (Callaghan) 436]
State Compensation Insurance Fund v. WPS, Inc. (1999) 70 Cal.App.4th 644 [82 Cal.Rptr.2d 799]
Aerojet-General Corp. v. Transport Indemnity Insurance (1993) 18 Cal.App.4th 996
- failure to dismiss a defendant
MGIC Indemnity Corporation v. Moore (9th Cir. 1991) 952 F.2d 1120
- intentional concealment of evidence
Sherman v. Kinetic Concepts, Inc. (1998) 67 Cal.App.4th 1152 [79 Cal.Rptr.2d 641]
- when attorney disregarded clients’ instructions
Trulis v. Barton (9th Cir. 1995) 67 F.3d 779
- willful actions/recklessness coupled with frivolousness, harassment, or improper purpose
Fink v. Gomez (9th Cir. 2001) 239 F.3d 989
In re Deville (9th Cir. BAP 2002) 280 B.R. 483
DeRose v. Heurlin (2002) 100 Cal.App.4th 158 [122 Cal.Rptr.2d 630]
Laborde v. Aronson (2001) 92 Cal.App.4th 459 [112 Cal.Rptr.2d 119]
- For default
Hamilton v. Neptune Orient Lines (9th Cir. 1987) 811 F.2d 498, 500
- For delay
Hamilton v. Neptune Orient Lines (9th Cir. 1987) 811 F.2d 498, 500
Thompson v. Tega-Rand Intern. (9th Cir. 1984) 740 F.2d 762, 764
In re Deville (9th Cir. BAP 2002) 280 B.R. 483
DeRose v. Heurlin (2002) 100 Cal.App.4th 158 [122 Cal.Rptr.2d 630]
Harris v. Sandro (2002) 96 Cal.App.4th 1310 [117 Cal.Rptr.2d 910]
Bryan v. Bank of America (2001) 86 Cal.App.4th 185 [103 Cal.Rptr.2d 148]
Dana Commercial Credit v. Ferns & Ferns (2001) 90 Cal.App.4th 142 [108 Cal.Rptr.2d 278]
Laborde v. Aronson (2001) 92 Cal.App.4th 459 [112 Cal.Rptr.2d 119]
Pierotti, et al. v. Torian (2000) 81 Cal.App.4th 17 [96 Cal.Rptr.2d 553]
Tkaczyk v. City of Los Angeles (1988) 204 Cal.App.3d 349 [251 Cal.Rptr. 75]
 sanctions under CCP § 128.5 require notice of grounds and opportunity to respond
Dana Commercial Credit v. Ferns & Ferns (2001) 90 Cal.App.4th 142 [108 Cal.Rptr.2d 278]
Jansen Associates, Inc. v. Codercard, Inc. (1990) 218 Cal.App.3d 1166 [267 Cal.Rptr. 516]
In re Marriage of Quinlan (1989) 209 Cal.App.3d 1417 [257 Cal.Rptr. 850]
- For discovery abuses
Hyde & Drath v. Baker (9th Cir. 1994) 24 F.3d 1162
Kaplan v. Hartunian (1994) 21 Cal.App.4th 1611 [26 Cal.Rptr.2d 786]
Ghanooni v. Super Shuttle of Los Angeles (1993) 20 Cal.App.4th 256 [24 Cal.Rptr.2d 501]
Imuta v. Nakano (1991) 233 Cal.App.3d 1570
- failure of law firm to disclose corporate client’s suspended status is sanctionable even though firm did not engage in any abuse of the discovery process
Palm Valley Homeowners Association v. Design MTC (2000) 85 Cal.App.4th 553 [102 Cal.Rptr.2d 350]
- order imposing sanctions on attorney pursuant to Federal Rule of Civil Procedure 37(a)(4) is not final decision and thus not immediately appealable
Cunningham v. Hamilton County, Ohio (1999) 527 U.S. 198 [119 S.Ct. 1915, L.Ed.2d 184]
- For failure to admit facts contained in request for admissions
Barnett v. Penske Truck Leasing (2001) 90 Cal.App.4th 494 [108 Cal.Rptr.2d 821]
- For failure to comply with court order
Pacific Harbor Capital, Inc. v. Carnival Air Lines, Inc. (9th Cir. 2000) 210 F.3d 1112
Sanders v. Union Pacific Railroad Company (1998) 154 F.3d 1037
Twentieth Century Insurance Company v. Choong (2000) 79 Cal.App.4th 1274 [94 Cal.Rptr.2d 753]
- For failure to disclose corporate client’s suspended status
Palm Valley Homeowners Association v. Design MTC (2000) 85 Cal.App.4th 553 [102 Cal.Rptr.2d 350]
- For failure to meet and confer with adversary
Bullock v. Vultee (1990) 224 Cal.App.3d 526 [273 Cal.Rptr. 704]
- attorney not subject to sanctions under local rules where such rules are inconsistent with statutory procedures
Pacific Trends Lamp & Lighting Products, Inc. v. J. White Inc. (1998) 65 Cal.App.4th 1131 [76 Cal.Rptr. 918]
- For failure to settle case
Moncharsh v. Heily & Blase (1992) 3 Cal.4th 1
Barrientos v. City of Los Angeles (1994) 30 Cal.App.4th 63 [35 Cal.Rptr.2d 520]

SANCTIONS

For frivolous appeal

DeRose v. Heurlin (2002) 100 Cal.App.4th 158 [122 Cal.Rptr.2d 630]
Harris v. Sandro (2002) 96 Cal.App.4th 1310 [117 Cal.Rptr.2d 910]
Morrison v. Rudolph (2002) 103 Cal.App.4th 506 [126 Cal.Rptr.2d 747]
Dana Commercial Credit v. Ferns & Ferns (2001) 90 Cal.App.4th 142 [108 Cal.Rptr.2d 278]
Pierotti, et al. v. Torian (2000) 81 Cal.App.4th 17 [96 Cal.Rptr.2d 553]
Caro v. Smith (1997) 59 Cal.App.4th 725 [69 Cal.Rptr.2d 306]
In re Marriage of Adams (1997) 52 Cal.App.4th 911 [60 Cal.Rptr.2d 811]
Say v. Castellano (1994) 22 Cal.App.4th 88 [27 Cal.Rptr.2d 270]
Cohen v. General Motors (1992) 2 Cal.App.4th 893
Computer Prepared Accounts, Inc. v. Katz (1991) 232 Cal.App.3d 209 [283 Cal.Rptr. 345]
Bank of California v. Varakin (1990) 216 Cal.App.3d 1630
McDonald v. Scripps Newspaper (1989) 210 Cal.App.3d 100 [257 Cal.Rptr. 473]
National Secretarial Service v. Froehlich (1989) 210 Cal.App.3d 510 [258 Cal.Rptr. 506]
Scott v. Younger (9th Cir. 1984) 739 F.2d 1464, 1467
DeWitt v. Western Pacific Railroad Company (9th Cir. 1983) 719 F.2d 1448
Corona v. Lundigan (1984) 158 Cal.App.3d 764, 769 [204 Cal.Rptr. 846]
Wax v. Infante (1982) 138 Cal.App.3d 138 [187 Cal.Rptr. 686]
In re Scott (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 446
 and for bad faith, vexatious, wanton, or oppressive reasons
Int'l. Union of P.I.W. v. Western Indus. Main. (9th Cir. 1983) 707 F.2d 425, 428
 by disbarred attorney – merits substantial sanctions
Young v. Rosenthal (1989) 212 Cal.App.3d 96 [260 Cal.Rptr. 369]
 notification of State Bar
Papadakis v. Zelis (1992) 8 Cal.App.4th 1146 [11 Cal.Rptr.2d 411]
Bank of California v. Varakin (1990) 216 Cal.App.3d 1630

For frivolous complaint

Truesdell v. Southern California Permanente Medical Group (9th Cir. 2002) 293 F.3d 1146
Gaskell v. Weir (9th Cir. 1993) 10 F.3d 626

For frivolous motion

CPI Builders, Inc. v. IMPCO Technologies, Inc. (2001) 94 Cal.App.4th 1167 [114 Cal.Rptr.2d 851]
Dana Commercial Credit v. Ferns & Ferns (2001) 90 Cal.App.4th 142 [108 Cal.Rptr.2d 278]
In re the Marriage of Burgard (1999) 72 Cal.App.4th 74 [84 Cal. Rptr.2d 739]
Monex International v. Peinado (1990) 224 Cal.App.3d 1619 [274 Cal.Rptr. 667]

For frivolous petition demonstrating pattern of delay

Gottlieb v. Superior Court (1991) 232 Cal.App.3d 804 [283 Cal.Rptr. 771]

For frivolous pleadings

580 Folsom Associates v. Prometheus Development Co. (1990) 223 Cal.App.3d 1 [272 Cal.Rptr. 227]
 requires subjective bad faith
Llamas v. Diaz (1990) 218 Cal.App.3d 1043 [267 Cal.Rptr. 427]

For misleading responses to requests for admission

Marchand v. Mercy Medical Center (9th Cir. 1994) 22 F.3d 933

For multiplying proceedings unreasonably and vexatiously under 28 U.S.C. section 1927

Gomez v. Vernon (9th Cir. Idaho 2001) 255 F.3d 1118 [50 Fed. R. Serv.3d (Callaghan) 436]
In re Deville (9th Cir. BAP 2002) 280 B.R. 483

For obstreperous actions of counsel

In re Marriage of Daniels (1993) 19 Cal.App.4th 1102

For repeated requests for reconsideration

Conn v. Borjorquez (9th Cir. 1992) 967 F.2d 1418

For unjustified litigation

Datig v. Dove Books, Inc. (1999) 73 Cal.App.4th 964 [87 Cal.Rptr.2d 719]

Harsh judicial words constitute sanction only if they are expressly identified as reprimand

Weissman v. Quail Lodge Inc. (9th Cir. 1999) 179 F.3d 1194

Imposed by State Bar against disciplined attorneys under Business and Professions Code § 8086.13

In re Taggart (2001) 249 F.3d 987

Inherent power of court

available where attorney makes reckless misstatements of fact and law coupled with an improper purpose

Fink v. Gomez (9th Cir. 2001) 239 F.3d 989

bankruptcy court abused its discretion by using its § 105(a) inherent powers as alternative authority for sanctioning attorney

Eskanos & Adler, P.C. v. Leetien (9th Cir. 2002) 309 F.3d 1210

Judicial

duty to report monetary sanctions over \$1,000 except for discovery sanctions

Business and Professions Code section 6068 (o)(3)

Hill v. MacMillan/McGraw Hill Company (9th Cir. 1996) 102 F.3d 422

Sarraf v. Standard Insurance Co. (9th Cir. 1996) 102 F.3d 991

DeRose v. Heurlin (2002) 100 Cal.App.4th 158 [122 Cal.Rptr.2d 630]

In the Matter of Respondent Y (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 862

In the Matter of Blum (Review Dept. 1994) 3 Cal. State Bar Ct. Rptr. 170

CAL 1997-151

Law firm has standing to appeal monetary sanction on firm attorney

Twentieth Century Insurance Company v. Choong (2000) 79 Cal.App.4th 1274 [94 Cal.Rptr.2d 753]

Limitations on

Caldwell v. Samuels Jewelers (1990) 222 Cal.App.3d 970 [272 Cal.Rptr. 126]

Altmeyer v. AICCO (1984) 156 Cal.App.3d 855, 864-866 [203 Cal.Rptr. 106]

Stegman v. Bank of America (1984) 156 Cal.App.3d 843 [203 Cal.Rptr. 103]

juvenile proceeding

In re Sean R. (1989) 214 Cal.App.3d 662

May not be imposed without hearing

Brekhus & Williams v. Parker-Rhodes (1988) 198 Cal.App.3d 788 [244 Cal.Rptr. 48]

Meritless suit results in Federal Rule of Civil Procedure, Rule 11, sanctions on attorney

Truesdell v. Southern California Permanente Medical Group (9th Cir. 2002) 293 F.3d 1146

King v. Idaho Funeral Service Association (9th Cir. 1988) 862 F.2d 744

Meritorious cause of action

improper basis for imposing sanctions

Atchison, Topeka and Santa Fe R.R. Co. v. Stockton Port District (1983) 140 Cal.App.3d 111 [189 Cal.Rptr. 208]

Misrepresentation of evidence in argument

In re Disciplinary Action Curl (9th Cir. 1986) 803 F.2d 1004

Misuse of discovery under CCP section 2023 need not be willful

Kohan v. Kohan (1991) 229 Cal.App.3d 967 [280 Cal.Rptr. 474]

Monetary

Code of Civil Procedure section 128

Lind v. Medevac, Inc. (1990) 219 Cal.App.3d 516 [268 Cal.Rptr. 359]

Code of Civil Procedure section 128.7

Laborde v. Aronson (2001) 92 Cal.App.4th 459 [112 Cal.Rptr.2d 119]

SEARCH WARRANT FOR LAW OFFICE

- dismissal inappropriate for failure to pay
Jones v. Otero (1984) 156 Cal.App.3d 754, 759 [203 Cal.Rptr. 90]
- for alleged violation of local court rules conduct must clearly interfere with administration of justice
Wehrli v. Pagliotti (9th Cir. 1991) 947 F.2d 1424
- inapplicable to appellate courts
Bryan v. Bank of America (2001) 86 Cal.App.4th 185 [103 Cal.Rptr.2d 148]
- "safe harbor" provisions preclude the imposition of sanctions who added fictitious defendants on the eve of trial
Goodstone v. Southwest Airlines (1998) 63 Cal.App.4th 406 [73 Cal.Rptr.2d 655]
- Non-party attorney may lack standing to seek sanctions for harassment against a party attorney
Capotosto v. Collins (1991) 235 Cal.App.3d 1439
Pennwalt Corp. v. Durand-Wauland, Inc. (9th Cir. 1983) 708 F.2d 492, 495
- Not properly imposed on client for alleged failure of counsel to adhere to court rule
Estate of Meeker (1993) 13 Cal.App.4th 1099 [16 Cal.Rptr. 825]
- On attorney and client
Cosenza v. Kramer (1984) 152 Cal.App.3d 1100 [200 Cal.Rptr. 18]
appropriate method for dealing with unjustified litigation
Sheldon Appel Co. v. Albert & Olier (1989) 47 Cal.3d 863, 873-874 [254 Cal.Rptr. 336]
Datig v. Dove Books, Inc. (1999) 73 Cal.App.4th 964 [87 Cal.Rptr.2d 719]
- Public defender
not imposed for filing misleading emergency petition where factual omission resulted from mistake
Jones v. Superior Court (1994) 26 Cal.App.4th 92 [31 Cal.Rptr.2d 264]
- Scheduling depositions and serving subpoenas when opposing counsel is known to be out of the country
Tenderloin Housing Clinic, Inc. v. Sparks (1992) 8 Cal App. 4th 209
- Trial court award of attorney fees
Benson v. Greitzer (1990) 220 Cal.App.3d 11 [269 Cal.Rptr. 201]
- Two requirements: just and related to particular claim as to discovery
Wyle v. R.J. Reynolds Industries, Inc. (9th Cir. 1983) 709 F.2d 585, 591
- Under Code of Civil Procedure section 128.5
Dana Commercial Credit v. Ferns & Ferns (2001) 90 Cal.App.4th 142 [108 Cal.Rptr.2d 278]
In re Marriage of Reese and Guy (1999) 73 Cal.App.4th 1214 [87 Cal.Rptr.2d 339]
In re Marriage of Adams (1997) 52 Cal.App.4th 911 [60 Cal.Rptr.2d 811]
- bad faith intentional concealment of evidence
Sherman v. Kinetic Concepts, Inc. (1998) 67 Cal.App.4th 1152 [79 Cal.Rptr.2d 641]
- bad faith required for sanctions
Foxgate Homeowners' Association, Inc., v. Bramalea California, Inc. (2001) 26 Cal.4th 1 [108 Cal.Rptr.2d 642]
Dana Commercial Credit v. Ferns & Ferns (2001) 90 Cal.App.4th 142 [108 Cal.Rptr.2d 278]
Muega v. Menocal (1996) 50 Cal.App.4th 868 [57 Cal.Rptr.2d 697]
Javor v. Dellinger (1992) 2 Cal.App.4th 1258
On v. Cow Hollow Properties (1990) 222 Cal.App.3d 1568
- bad faith submission of forged documents
Computer Prepared Accounts, Inc. v. Katz (1991) 232 Cal.App.3d 209 [283 Cal.Rptr. 345]
- duty to report the imposition of sanctions to State Bar not excused solely because of the pendency of an appeal
In the Matter of Wyshak (Review Dept. 1999) 4 Cal. State Bar Ct. Rptr. 70
In the Matter of Respondent Y (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 862, 867
- filing a frivolous lawsuit
Andrus v. Estrada (1995) 39 Cal.App.4th 1030
- filing false documents under penalty of perjury
Bryan v. Bank of America (2001) 86 Cal.App.4th 185 [103 Cal.Rptr.2d 148]
- order must specify attorney misconduct
Jansen Associates, Inc. v. Codercard Inc. (1990) 218 Cal.App.3d 1166 [267 Cal.Rptr. 516]
- require written notice of hearing
O'Brien v. Cseh (1983) 148 Cal.App.3d 957 [196 Cal.Rptr. 409]
- "reasonable expenses" cannot be read to amount to consequential damages
Brewster v. Southern Pacific Transportation Co. (1991) 235 Cal.App.3d 701
- Under Code of Civil Procedure section 128.7, the purpose is to deter frivolous actions and give the offending party the opportunity to withdraw or correct the pleading
Banks v. Hathaway, Perrett, Webster, Powers & Chrisman (2002) 97 Cal.App.4th 949 [118 Cal.Rptr.2d 803]
- Under Code of Civil Procedure section 177.5, when attorney leaves courtroom after being ordered not to leave
Seykora v. Superior Court (1991) 232 Cal.App.3d 1075
- Under Code of Civil Procedure sections 2030(1) and 2023(b)(1) discovery sanctions not available to attorney who litigates in propria persona
Argaman v. Ratan (1999) 73 Cal.App.4th 1173 [86 Cal.Rptr.2d 917]
- Under Code of Civil Procedure section 2033
Barnett v. Penske Truck Leasing (2001) 90 Cal.App.4th 494 [108 Cal.Rptr.2d 821]
- Vexatious litigant
attorney appearing for client is not a litigant
Weissman v. Quail Lodge Inc. (9th Cir. 1999) 179 F.3d 1194
- When defendant and attorneys fail to appear at deposition
Rockwell International Inc. v. Pos-A-Traction Industries (9th Cir. 1983) 712 F.2d 1324, 1326

SEARCH WARRANT FOR LAW OFFICE

- Penal Code sections 1524, 1525
Conn v. Gabbert (1999) 526 U.S. 286 [119 S.Ct. 1292]
United States v. Mittleman (1993) 999 F.2d 440
Gordon, III v. Superior Court (1997) 55 Cal.App.4th 1546 [65 Cal.Rptr.2d 53]

SEMINARS

- LA 286 (1965), LA 221 (1954)
SD 1974-16, SD 1974-21

SETTLEMENT

- Acceptance of settlement offers
subsequent rejection
Gray v. Stewart (2002) 97 Cal.App.4th 1394 [119 Cal.Rptr.2d 217]
- Agreement providing that trial court will determine prevailing party and award of attorney fees is valid and enforceable
Jackson v. Homeowners Association Monte Vista Estates-East (2001) 93 Cal.App.4th 773 [113 Cal.Rptr.2d 363]
- Authority of attorney
Mallott & Peterson v. Director, Office of Workers' Compensation Program (9th Cir. 1996) 98 F.3d 1170
Burckhard v. Del Monte Corp. (1996) 48 Cal.App.4th 1912 [56 Cal.Rptr.2d 569]
Robertson v. Kou-Pin Chen (1996) 44 Cal.App.4th 1290 [52 Cal.Rptr.2d 264]
Levy v. Superior Court (1995) 10 Cal.4th 578 [41 Cal.Rptr.2d 878]
- By attorney representing insured defendant for amount above policy limit
LA 239 (1957)
- Check issued only to client, but delivered to attorney who has a lien
OR 99-002

SETTLEMENT

Class action

class member has standing to appeal final award of costs and fees which were payable by defendants independently rather than from class settlement

Lobatz v. U.S. West Cellular (9th Cir. 2000) 222 F.3d 1142
fees paid directly to plaintiff's counsel by defendant pursuant to ADEA's fee-shifting provision is taxable income to plaintiff
Sinyard v. Commissioner of Internal Revenue (9th Cir. 2001) 268 F.3d 756

withdrawal by counsel who previously represented members opposed to the settlement, then later represented those in favor, was not improper

7-Eleven Owners for Fair Franchising v. The Southland Corporation (2000) 85 Cal.App.4th 1135 [102 Cal.Rptr.2d 277]

Client cannot be located

LA 441 (1987)

Client may negotiate settlement with opposing party without authorization from the attorneys involved in the case

In re Marriage of Hasso (1991) 229 Cal.App.3d 1174

Client objects

LA 49 (1927)

Communication of written offer

Rule 5-105, Rules of Professional Conduct (operative until May 26, 1989)

Rule 3-510, Rules of Professional Conduct (operative as of May 27, 1989)

In the Matter of Steele (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 708

Communication with opposing party about

SD 1978-8

by client

LA 375 (1978)

SF 1973-25

counsel of opposing party refuses to acknowledge offer

LA 350 (1975)

not represented by counsel

LA 170 (1949)

represented by absent counsel

SD 1968-2

represented by counsel

LA 350 (1975)

Confidential settlement agreement

McPhearson v. Michaels Company (2002) 96 Cal.App.4th 843 [117 Cal.Rptr.2d 489]

Gilbert v. National Corporation for Housing

Partnerships (1999) 71 Cal.App.4th 1240 [84 Cal.Rptr. 204]

Winkler v. Superior Court (1996) 51 Cal.App.4th 233 [58 Cal.Rptr.2d 791]

renders CCP § 998 offer invalid

Barella v. Exchange Bank (2001) 84 Cal.App.4th 793 [101 Cal.Rptr.2d 167]

Condition settlement on plaintiff's attorney waiving fees

Venegas v. Mitchell (1990) 110 S.Ct. 1679

Evans v. Jeff D. (1986) 475 U.S. 717 [106 S.Ct. 1531]

LA 505 (2000), LA 445 (1987)

Conflicting instructions from insurance company and assured

LA 344 (1974)

Deposition of opposing counsel to inquiry of bad or unreasonable conduct of defendant in settlement process

Spectra-Physics, Inc. v. Superior Court (1988) 198 Cal.App.3d 1487 [244 Cal.Rptr. 258]

Disclosure of death of client

LA 300 (1967)

Duty to inform opposing party of mistake

no duty found

LA 380 (1979)

Endorsement of client check

successor attorney authorizes an employee to simulate the prior attorney's signature on a settlement draft

In the Matter of Respondent H (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 234

Exonerate client in public eye, attorney no duty to

Zalta v. Billips (1978) 81 Cal.App.3d 183 [144 Cal.Rptr. 888]

Insurance defense matter

New Plumbing Contractors, Inc. v. Edwards, Sooy & Byron (2002) 99 Cal.App.4th 799 [121 Cal.Rptr.2d 472]

Insurer's attorney has duty to include insured's independent counsel in settlement negotiations and to fully exchange information

Novak v. Low, Ball & Lynch (1999) 77 Cal.App.4th 278 [91 Cal.Rptr.2d 453]

Lay person who is adjuster, with

SD 1978-8

Lay person who is employee

LA 277 (1963), LA(l) 1972-19

Malpractice claim

breach of contract action available if settlement agreement cannot be enforced under CCP § 664.6

Harris v. Rudin, Richman & Appel (1999) 74 Cal.App.4th 299 [97 Cal.Rptr.2d 822]

Marital settlement agreements

attorney approval not required for parties in dissolution matter to enter into a written marital settlement agreement

In re Marriage of Hasso (1991) 229 Cal.App.3d 1174

scrivener services by a single attorney for both husband and wife in dissolution of marriage requires informed written consent for potential conflict

In re Marriage of Egedi (2001) 88 Cal.App.4th 17 [105 Cal.Rptr.2d 518]

Minor's compromise

trial court has jurisdiction to divide attorney fees between prior and current attorneys as part of minor's settlement approval

Padilla v. McClellan (2001) 93 Cal.App.4th 1100 [113 Cal.Rptr.2d 680]

Negotiation for an in propria persona litigant

LA 502 (1999)

Negotiations not to prosecute

CAL 1986-89

No client consent obtained

Sampson v. State Bar (1974) 12 Cal.3d 70, 82 [115 Cal.Rptr. 43]

Bodisco v. State Bar (1962) 58 Cal.2d 495, 497 [24 Cal.Rptr. 835]

CAL 1994-136

Offer

Gray v. Stewart (2002) 97 Cal.App.4th 1394 [119 Cal.Rptr.2d 217]

Cassin v. Financial Ind. Co. (1958) 160 Cal.App.2d 631 [325 P.2d 228]

informing client of written offer to settle

Rule 3-510, Rules of Professional Conduct

plaintiff entitled to award of attorney's fees as prevailing party where sum of jury damage award and defendant's post-settlement offer exceed defendant's pre-trial settlement offer

Mesa Forest Products Inc. v. St. Paul Mercury Insurance Co. (1999) 73 Cal.App.4th 324 [86 Cal.Rptr.2d 398]

settlement offer silent as to right to recover attorney's fees and costs does not constitute a waiver of that right

Ritzenthaler v. Fireside Thrift (2001) 93 Cal.App.4th 986 [113 Cal.Rptr.2d 579]

Oral acceptance of settlement offers

subsequent rejection

Gray v. Stewart (2002) 97 Cal.App.4th 1394 [119 Cal.Rptr.2d 217]

Represent in settlement when fee owed by client comes out of settlement

LA 350 (1975)

SD 1975-4

Requires client's consent

Sampson v. State Bar (1974) 12 Cal.3d 70, 82

Bodisco v. State Bar (1962) 58 Cal.2d 495, 497

LA 505 (2000)

Restricts right of attorney to practice law

Rule 1-500, Rules of Professional Conduct

SEXUAL RELATIONS WITH CLIENT

Revocation of settlement offer

Gray v. Stewart (2002) 97 Cal.App.4th 1394 [119 Cal.Rptr.2d 217]

Scrivener services by a single attorney for both husband and wife in dissolution of marriage requires informed written consent for potential conflict

In re Marriage of Egedi (2001) 88 Cal.App.4th 17 [105 Cal.Rptr.2d 518]

Stop payment of check for

LA(l) 1966-5

Structured settlement, use of

Ramirez v. Sturdevant (1994) 21 Cal.App.4th 904 [26 Cal.Rptr.2d 554]

Franck v. Polaris E-Z Go Division of Textron (1984) 157 Cal.App.3d 1107, 1116, 1119
31 A.L.R.4th 96 (1984)

31 Am.Jur. Trials 605 (1984)

70 A.B.A.J. 67 (May 1994)

CAL 1994-135, CAL 1987-94

Unauthorized settlement

no client consent or knowledge

Bambic v. State Bar (1985) 40 Cal.3d 314 [219 Cal.Rptr. 489]

Sampson v. State Bar (1974) 12 Cal.3d 70, 82 [115 Cal.Rptr. 43]

Bodisco v. State Bar (1962) 58 Cal.2d 495, 497 [24 Cal.Rptr. 835]

Alvarado Community Hospital v. Superior Court (1985) 173 Cal.App.3d 476, 480-481 [219 Cal.Rptr. 52]

CAL 1994-135, LA 441 (1987)

ratification, client enforcement of beneficial part of

City of Fresno v. Baboian (1975) 52 Cal.App.3d 753 [125 Cal.Rptr. 332]

Under Code of Civil Procedure 998

withdrawal of oral acceptance

Gray v. Stewart (2002) 97 Cal.App.4th 1394 [119 Cal.Rptr.2d 217]

Workers' Compensation cases

claimant's attorney is not entitled to fees from settlement proceeds under Labor Code §§ 3856 and 3860 if claimant received no benefit from the settlement

Draper v. Aceto (2001) 26 Cal.4th 1086 [113 Cal.Rptr.2d 61]

Written offer of, communication to client

Rule 5-105, Rules of Professional Conduct (operative until May 26, 1989)

Rule 3-510, Rules of Professional Conduct (operative as of May 27, 1989)

In the Matter of Yagman (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 788

SEXUAL RELATIONS WITH CLIENT

Rule 3-120, Rules of Professional Conduct.

Business & Professions Code Section 6106.9

McDaniel v. Gile (1991) 230 Cal.App.3d 363 [281 Cal.Rptr. 242]

Barbara A. v. John G. (1983) 145 Cal.App.3d 369 [193 Cal.Rptr. 422]

CAL 1987-92

SMALL CLAIMS COURT

Attorney's appearance in

LA 105 (1936)

SOLICITATION OF BUSINESS

[See Advertising. Business activity. Fee. Lay intermediaries. Referral of legal business. Runners and cappers.]

Business and Professions Code sections 6150-6154, 6157

Rule 2-101(B),(C),(D), Rules of Professional Conduct (operative until May 26, 1989)

Rule 1-400, Rules of Professional Conduct (operative as of May 27, 1989)

CAL 1988-105

LA(l) 1974-6, LA(l) 1972-16, LA(l) 1959-2,

Acceptance of employment resulting from unsolicited advice

Colonial Life & Accident Ins. Co. v. Superior Court (1982) 31 Cal.3d 785 [183 Cal.Rptr. 810, 647 P.2d 86]

Ambulance chasing

Tonini v. State Bar (1956) 46 Cal.2d 491, 497

Hildebrand v. State Bar (1941) 18 Cal.2d 816 [117 P.2d 860]

Waterman v. State Bar (1939) 14 Cal.2d 224 [93 P.2d 95]

McCue v. State Bar (1935) 4 Cal.2d 79 [47 P.2d 268]

Clark v. State Bar (1931) 214 Cal. 281, 284 [4 P.2d 944]

Dudney v. State Bar (1931) 214 Cal. 238, 239 [4 P.2d 770]

Dahl v. State Bar (1931) 213 Cal. 160 [1 P.2d 977]

Irving v. State Bar (1931) 213 Cal. 81 [1 P.2d 2]

Howe v. State Bar (1931) 212 Cal. 222 [298 P. 25]

Smallberg v. State Bar (1931) 212 Cal. 113 [297 P. 916]

Shaw v. State Bar (1931) 212 Cal. 52 [297 P. 532]

Smith v. State Bar (1930) 211 Cal. 249 [294 P. 1057]

Townsend v. State Bar (1930) 210 Cal. 362 [291 P. 837]
SD 2000-1

investigation service in personal injury matters

CAL 1995-144, LA 474 (1993)

Announcement to clients

of association of firm specializing in tax matters

LA 119 (1938)

Assigned counsel, by

Business and Professions Code section 6152(d)

SD 1968-4

Attorney remunerates another for soliciting or obtaining professional employment

Hildebrand v. State Bar (1950) 36 Cal.2d 504, 510 [225 P.2d 508]

Hildebrand v. State Bar (1941) 18 Cal.2d 816, 824 [117 P.2d 860]

Roth v. State Bar (1937) 8 Cal.2d 656, 659 [67 P.2d 337]

Bid for legal work

LA 342 (1973)

Broadcasting [See Advertising, Broadcasting and Solicitation, Radio or television.]

Brochure

randomly distributed

LA 419 (1983)

Business activity as means for

LA 262 (1959), LA(l) 1965-3

By adjustment of fees

lower fees

-in return for guaranteed additional work

LA 322 (1971)

By attorney

of attorney

CAL 1981-61

of clients

-engaged in dual occupation

--real estate business

CAL 1981-61

LA 446 (1987), LA 413 (1983), LA 140 (1942)

of those with interests similar to those of existing client

SD 1976-3

By attorney at hospital

Business and Professions Code sections 6150-6154

Ohralik v. Ohio State Bar Association (1977) 436 U.S. 447, 450

Mitton v. State Bar (1958) 49 Cal.2d 686, 688 [321 P.2d 13]

Hildebrand v. State Bar (1941) 18 Cal.2d 816, 822 [117 P.2d 860]

Fish v. State Bar (1931) 214 Cal. 215, 221 [4 P.2d 937]

By attorney's investigator

Rose v. State Bar (1989) 49 Cal.3d 646, 659

LA 474 (1993)

By business card delivered to accident victim at scene of

accident

SD 2000-1

By heir hunter

Estate of Wright (2001) 90 Cal.App.4th 228 [108 Cal.Rptr.2d 572]

By insurance company attorney

representation of assured

LA 336 (1973)

SOLICITATION OF BUSINESS

- By lay employee
 - LA 381 (1979)
- By lay entity
 - Estate of Wright (2001) 90 Cal.App.4th 228 [108 Cal.Rptr.2d 572]
 - CAL 1995-143, CAL 1995-144, LA 474 (1993)
 - attorney employed by
 - to advise, counsel and represent employees of
 - LA 137 (1941)
 - client for own counsel
 - LA(l) 1975-1, SD 1974-20
 - contract to acquire tax title to property
 - involving referral to lawyer for compensation
 - LA 135 (1941)
 - group representation
 - LA 257 (1959)
 - management consultant company
 - LA 446 (1987)
 - real estate business
 - LA 140 (1942)
 - associated with attorney
 - LA 140 (1942)
 - recommends particular lawyer
 - LA 314 (1970), LA 158 (1945), LA 155 (1945), LA 148 (1944), LA(l) 1934-1
 - SD 1983-4, SD 1973-8
 - referral, systematic
 - LA 349 (1975), LA 262 (1959), LA 151 (1944), LA(l) 1948-3
 - SD 1983-4, SD 1974-21 1/2, SD 1973-8
- By legal research service
 - operated by attorneys
 - constitutes practice of law
 - LA 301 (1967)
- By letter
 - Shapero v. Kentucky Bar Association (1988) 486 U.S. 466 [108 S.Ct. 1916]
 - In re Primus (1978) 436 U.S. 412, 416 [98 S.Ct. 1893, 56 L. Ed. 2d 417]
 - In re Morse (1995) 11 Cal.4th 184 [44 Cal.Rptr.2d 620]
 - People v. Morse (1993) 21 Cal.App.4th 259 [25 Cal.Rptr.2d 816]
 - Utz v. State Bar (1942) 21 Cal.2d 100, 105 [130 P.2d 377]
 - In the Matter of Phillips (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 315
 - CAL 1995-142; CAL 1988-105; CAL 1982-67, CAL 1981-61, CAL 1980-54
 - LA 404 (1983), LA 24 (1923), LA 3 (1917)
 - SD 1992-3, SD 1983-5, OR 93-001
 - of creditors
 - advising of claims of which unaware
 - offering to represent on percentage basis
 - LA 122 (1939)
 - statute that places conditions on use of public access of names and addresses of individuals arrested by police is not facially invalid
 - Los Angeles Police Department v. United Reporting Publishing Corp. (1999) 528 U.S. 32 [120 S.Ct. 483]
- target mail
 - Shapero v. Kentucky Bar Association (1988) 486 U.S. 466 [108 S.Ct. 1916]
 - In re Morse (1995) 11 Cal.4th 184 [44 Cal.Rptr.2d 620]
 - People v. Morse (1993) 21 Cal.App.4th 816 [25 Cal.Rptr.2d 816]
- targeted to specific potential clients
 - CAL 1995-142, CAL 1988-105
 - SD 1992-3, OR 93-001
- to members of trade association
 - announce resignation of public office and opening of private practice
 - LA 127 (1940)
 - announce specialized legal services
 - LA 127 (1940)
- to other lawyers
 - describing qualifications
 - LA 29 (1925)
 - offering to represent in other jurisdictions
 - LA 71 (1933)
 - requesting referral
 - CAL 1981-61, SF 1970-2
- to prospective clients
 - CAL 1980-54, SD 1983-5
 - advising of meritorious claims
 - LA 404 (1983), LA 62 (1930)
- By mail [See supra, by letter.]
- card, professional
 - designation of specialized legal services
 - LA 127 (1940)
 - to other lawyers
 - LA 419 (1983), LA 127 (1940)
- target mail
 - Shapero v. Kentucky Bar Association (1988) 486 U.S. 466 [108 S.Ct. 1916]
 - In re Morse (1995) 11 Cal.4th 184 [44 Cal.Rptr.2d 620]
 - People v. Morse (1993) 21 Cal.App.4th 259 [25 Cal.Rptr.2d 816]
 - statute that places conditions on use of public access of names and addresses of individuals arrested by police is not facially invalid
 - Los Angeles Police Department v. United Reporting Publishing Corp. (1999) 528 U.S. 32 [120 S.Ct. 483]
- targeted to specific potential clients
 - CAL 1995-142, CAL 1988-105
 - SD 1992-3
 - OR 93-001
- to lawyers
 - opening law office, announcing
 - LA 128 (1940)
 - requesting referrals
 - SF 1970-2
 - specialized legal services, notice of
 - LA 128 (1940)
- to non-clients
 - Adams v. Attorney Registration, et al (D.C. ILL 1985) 617 F.Supp. 449
 - SD 1983-5
- to prospective clients
 - LA 404 (1983)
 - opening law office, announcement of
 - LA 128 (1940)
 - specialized legal services, notice of
 - LA 128 (1940)
- to realtors, fee discounted for referrals
 - CAL 1983-75
- By non-lawyer
 - who will receive part of recovery
 - claims against corporation
 - LA 93 (1936)
- By physician
 - CAL 1995-143
- By specialist
 - LA(l) 1974-6
- By telephone
 - In the Matter of Kroff (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 838
 - CAL 1988-105
 - offer to conduct seminars
 - LA 494 (1998)
- By third party
 - Goldman v. State Bar (1977) 20 Cal.3d 130, 134, 138 [141 Cal.Rptr. 447]
 - Urbano v. State Bar (1977) 19 Cal.3d 16, 19 [136 Cal.Rptr. 572]
 - Kelson v. State Bar (1976) 17 Cal.3d 1 [130 Cal.Rptr. 29]
 - Geffen v. State Bar (1975) 14 Cal.3d 843, 846 [122 Cal.Rptr. 865]

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- Younger v. State Bar (1974) 12 Cal.3d 274, 287 [113 Cal.Rptr. 829]
- Ashe v. State Bar (1969) 71 Cal.2d 123 [77 Cal.Rptr. 233]
- Linnick v. State Bar (1964) 62 Cal.2d 17, 20 [41 Cal.Rptr. 1]
- Best v. State Bar (1962) 57 Cal.2d 633, 635, 637 [21 Cal.Rptr. 589, 371 P.2d 325]
- Griffith v. State Bar (1953) 40 Cal.2d 470, 471 [254 P.2d 22]
- Utz v. State Bar (1942) 21 Cal.2d 100, 108 [130 P.2d 377]
- Hildebrand v. State Bar (1941) 18 Cal.2d 816, 824 [117 P.2d 860]
- Werner v. State Bar (1939) 13 Cal.2d 666, 673 [91 P.2d 881]
- Roth v. State Bar (1937) 8 Cal.2d 656, 659 [67 P.2d 337]
- Sawyer v. State Bar (1934) 220 Cal. 702, 711 [32 P.2d 369]
- Fish v. State Bar (1931) 214 Cal. 215, 218 [4 P.2d 937]
- Smallberg v. State Bar (1931) 212 Cal. 113, 118 [297 P. 916]
- In the Matter of Kroff (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 838
- In the Matter of Scapa and Brown (Review Dept. 1993) 2 Cal. State Bar Ct. Rptr. 635
- LA 474 (1993)
- in criminal actions
- Best v. State Bar (1962) 57 Cal.2d 633, 635, 637 [21 Cal.Rptr. 589]
- in debt collection matter
- attorney and non-lawyer to divide
- LA 96 (1936)
- Capping
- In the Matter of Nelson (Review Dept. 1990) 1 Cal. State Bar Ct. Rptr. 178
- LA 474 (1993)
- Card, professional
- LA 419 (1983)
- delivered to accident victim at scene of accident
- SD 2000-1
- by mail
- to other lawyers
- designation of specialized legal services
- LA 127 (1940)
- "nominal fee" printed on
- LA 131 (1940)
- random distribution
- LA 419 (1983)
- Civil rights
- In re Primus (1977) 436 U.S. 412, 422 [98 S.Ct. 1893, 56 L.Ed. 2d 417]
- NAACP v. Button (1963) 371 U.S. 415, 428 [9 L.Ed.2d 405, 83 S.Ct. 328]
- Class action
- potential members of class
- prior to certification
- Gulf Oil Company v. Bernard (1981) 452 U.S. 89 [101 S.Ct. 2193]
- In re McKesson HBOC, Inc. Securities Litigation (N.D. Cal. 2001) 126 F.Supp.2d 1239
- Howard Gunty Profit Sharing Plan, et al. v. Superior Court (Greenwood) (2001) 88 Cal.App.4th 572 [105 Cal.Rptr.2d 896]
- Atari, Inc. v. Superior Court (1985) 166 Cal.App.3d 867 [212 Cal.Rptr. 773]
- Collections
- LA 96 (1936)
- Communicate information about claims or actions in law to parties
- LA 158 (1945), LA(l) 1968-5
- SD 1976-3, SF 1973-17
- to heirs
- LA 163 (1947)
- Communication distinguished
- SD 2000-1
- Constitutional limitations
- 44 Liquormart Inc. v. Rhode Island Liquor Stores Assn. (1996) 517 U.S. 484 [116 S.Ct. 1495]
- Ibanez v. Florida Dept. of Business and Prof. Regulation, Bd. of Accountancy (1994) 512 U.S. 136 [114 S.Ct. 2084]
- Edenfield v. Fane (1993) 507 U.S. 761 [113 S.Ct. 1792]
- Central Hudson Gas & Electric Corp. v. Public Service Comm. Of New York (1980) 447 U.S. 557 [100 S.Ct. 2343]
- Virginia Bd. Of Pharmacy v. Virginia Citizens Consumer Council (1976) 425 U.S. 748 [96 S.Ct. 1817]
- Rubin v. Green (1993) 4 Cal.4th 1187 [17 Cal.Rptr.2d 828]
- statute that places conditions on use of public access of names and addresses of individuals arrested by police is not facially invalid
- Los Angeles Police Department v. United Reporting Publishing Corp. (1999) 528 U.S. 32 [120 S.Ct. 483]
- LA 494 (1998)
- Consumer groups
- attorney may solicit for opposition memoranda
- SF 1973-17
- Contacting potential member of a class action
- Atari, Inc. v. Superior Court (1985) 166 Cal.App.3d 867 [212 Cal.Rptr. 773]
- Do-it-yourself clinics
- Howard v. Superior Court (1975) 52 Cal.App.3d 722 [125 Cal.Rptr. 255]
- Dual practices/occupation
- CAL 1982-69
- LA 446 (1987), LA 413 (1983), LA 384 (1980)
- preparation of tax returns, advertisement of
- SD 1975-2
- Employment solicited, of legal and other business
- LA 135 (1941)
- Endorsement of commercial product
- Belli v. State Bar (1974) 10 Cal.3d 824, 840 [112 Cal.Rptr. 527]
- Committee on Professional Ethics and Conduct v. Humphrey (1986) 377 N.W.2d 643
- Faxing of unsolicited advertisements prohibited
- Destination Ventures Limited v. Federal Communications Commission (9th Cir. 1995) 46 F.3d 54
- Group legal services as a means for
- United Mine Workers v. Illinois State Bar Association (1967) 389 U.S. 217 [19 L.Ed.2d 426, 88 S.Ct. 353]
- Brotherhood of Railroad Trainmen v. Virginia State Bar (1964) 377 U.S. 1 [12 L.Ed. 89, 84 S.Ct. 1113]
- NAACP v. Button (1963) 371 U.S. 415 [9 L.Ed.2d 405, 83 S.Ct. 328]
- Brotsky v. State Bar (1962) 57 Cal.2d 287, 292 [19 Cal.Rptr. 153]
- Hildebrand v. State Bar (1950) 36 Cal.2d 504, 508 [225 P.2d 508]
- Heirs of decedent
- by heir hunter
- Estate of Wright (2001) 90 Cal.App.4th 228 [108 Cal.Rptr.2d 572]
- by letter
- LA 3 (1917)
- Homestead declarations
- In re Morse (1995) 11 Cal.4th 184 [44 Cal.Rptr.2d 620]
- People v. Morse (1993) 21 Cal.App.4th 259 [25 Cal.Rptr.2d 816]
- In newspaper
- Jacoby v. State Bar (1977) 19 Cal.3d 359, 371 [138 Cal.Rptr. 77]
- Bushman v. State Bar (1974) 11 Cal.3d 558, 567 [113 Cal.Rptr. 904]
- Millsberg v. State Bar (1971) 6 Cal.3d 65, 74 [490 P.2d 543]
- LA 8 (1917)
- In person
- In the Matter of Phillips (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 315
- In the Matter of Kroff (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 838
- CAL 1995-144, CAL 1988-105
- SD 1977-4
- business card delivered to accident victim at scene of accident
- SD 2000-1

SOLICITATION OF BUSINESS

- by non-lawyer
 - LA 474 (1993)
 - acceptance of employment to prosecute claims against corporation
 - LA 93 (1936)
 - employed by attorney
 - LA 96 (1936)
- In publications
 - notice of specialized service published in
 - LA 124 (1939)
- In social setting
 - by sponsoring coffee hour
 - SD 1973-14
- Indirect
 - in newspaper
 - series of articles on tax problems
 - LA 87 (1935)
- Interference with prospective business advantage [See Practice of law, interference with prospective business advantage.]
- Investigation of (out-of-state) accident before being retained as attorney
 - Ashe v. State Bar (1969) 71 Cal.2d 123 [77 Cal.Rptr. 233, 453, P.2d 737]
 - Honoroff v. State Bar (1958) 50 Cal.2d 202, 204 [323 P.2d 1003]
- Internet advertising
 - CAL 2001-155
- In-person by attorney
 - Ohralik v. Ohio State Bar Association (1977) 436 U.S. 447, 454 [98 S.Ct. 1912, 98 St. Ct. 1925, 56 L. Ed. 2d 444]
 - Kelson v. State Bar (1976) 17 Cal.3d 1 at 4, 6 [130 Cal.Rptr. 29]
 - Younger v. State Bar (1974) 12 Cal.3d 274, 287 [113 Cal.Rptr. 829]
 - Mitton v. State Bar (1958) 49 Cal.2d 686, 689 [321 P.2d 13]
 - Tonini v. State Bar (1956) 46 Cal.2d 491, 493 [297 P.2d 1]
 - Friday v. State Bar (1943) 23 Cal.2d 501 [144 P.2d 564]
 - Hildebrand v. State Bar (1941) 18 Cal.2d 816, 829 [117 P.2d 860]
 - Ewell v. State Bar (1934) 2 Cal.2d 209, 215 [40 P.2d 264]
 - Fish v. State Bar (1931) 214 Cal. 215 [4 P.2d 937]
 - In the Matter of Kroff (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 838
 - In the Matter of Scapa and Brown (Review Dept. 1993) 2 Cal. State Bar Ct. Rptr. 635
 - CAL 1995-144
 - business card delivered to accident victim at scene of accident
 - SD 2000-1
 - of other attorneys
 - CAL 1981-61
 - through living trust marketer as an agent
 - CAL 1997-148
- Law lists
 - cards, professional may be inserted in
 - if approved by court
 - LA 90 (1935)
- Litigation privilege
 - dismissal of defamation action against law firm justified
 - Dove Audio Inc. v. Rosenfeld, Meyer and Susman (1996) 47 Cal.App.4th 777 [54 Cal.Rptr.2d 830]
 - not a bar to cause of action for unlawful business practice resulting from law firm's direct solicitation of clients
 - Rubin v. Green (1992) 3 Cal.App.4th 1418
- Lower fees
 - in return for referrals
 - Hildebrand v. State Bar (1950) 36 Cal.2d 504, 509 [225 P.2d 508]
 - SD 1974-21 1/2, SD 1974-20
 - in return for solicitation of business
 - Hildebrand v. State Bar (1950) 36 Cal.2d 504, 509 [225 P.2d 508]
- to union members
 - Hildebrand v. State Bar (1950) 36 Cal.2d 504, 509 [225 P.2d 508]
- Mailing letter to particular potential clients
 - Shapiro v. Kentucky Bar Association (1988) 486 U.S. 466 [108 S.Ct. 1916]
 - In re Morse (1995) 11 Cal.4th 184 [44 Cal.Rptr.2d 620]
 - People v. Morse (1993) 21 Cal.App.4th 259 [25 Cal.Rptr.2d 816]
 - CAL 1995-142, CAL 1988-105, OR 93-001, SD 1992-3
- Mailing postcards to potential clients
 - Libarian v. State Bar (1944) 25 Cal.2d 314 [153 P.2d 739]
 - Mayer v. State Bar (1934) 2 Cal.2d 71, 73 [39 P.2d 206]
- Management consultant firm
 - LA 446 (1987)
- Medical liaison
 - CAL 1995-143
- Non-legal lecture engagements
 - Belli v. State Bar (1974) 10 Cal.3d 824, 832-833 [112 Cal.Rptr. 527]
 - advertising of
 - SD 1969-6
 - for client or other lay entity
 - LA 286 (1965), LA 96 (1936)
- Non-profit organization
 - In re Primus (1977) 436 U.S. 412, 420 [98 S.Ct. 1893, 56 L. Ed. 2d 417]
 - NAACP v. Button (1963) 371 U.S. 415, 419 [9 L.Ed.2d 405, 83 S.Ct. 328]
- Of claims against corporation
 - by non-lawyer
 - who will receive part of recovery
 - acceptance of employment by lawyer
 - LA 93 (1936)
- Potential members of class action
 - Gulf Oil Company v. Bernard (1981) 452 U.S. 89 [101 S.Ct. 2193]
 - In re McKesson HBOC, Inc. Securities Litigation (N.D. Cal. 2001) 126 F.Supp.2d 1239
 - Howard Guntz Profit Sharing Plan, et al. v. Superior Court (Greenwood) (2001) 88 Cal.App.4th 572 [105 Cal.Rptr.2d 896]
 - Atari, Inc. v. Superior Court (1985) 166 Cal.App.3d 867 [212 Cal.Rptr. 773]
- Presentation
 - use of a living trust marketer to solicit clients for the attorney
 - CAL 1997-148
 - use of a medical liaison to give a presentation containing a promotional message to a group of doctors who might recommend patients to the lawyer
 - CAL 1995-143
- Pro bono services
 - lawyer to provide
 - LA 55 (1928)
- Public defender, exemption for
 - Business and Professions Code section 6152(d)
 - In re Brindle (1979) 91 Cal.App.3d 660, 682 [154 Cal.Rptr. 563]
- Publishing company
 - LA 446 (1987)
- Radio or television, use of
 - Belli v. State Bar (1974) 10 Cal.3d 824, 832-833 [112 Cal.Rptr. 527, 519 P.2d 575]
 - Committee on Professional Ethics and Conduct v. Humphrey (1986) 377 N.W.2d 643
- educational television
 - LA(I) 1970-8
- participation by attorney
 - in radio or television programs
 - CAL 1972-29, LA 318 (1970), LA 186 (1957), LA(I) 1975-7, LA(I) 1970-12, LA(I) 1964-7
 - answering questions on law submitted by listeners
 - LA 299 (1966)

SPECIAL MASTER

--identification of name of lawyer
LA 299 (1966)
--televised trial
LA 404 (1983)
Random distribution
LA 419 (1983)
Recommend or designate other lawyer
LA 313 (1969), LA 216 (1953)
Referral
by lay entity
-religious organization members, referred to attorney employed by
LA 298 (1966)
by non-profit organization
-no charge
LA 73 (1934)
Referral, reciprocal agreement with lawyer
LA(I) 1959-3
Remuneration of third party
Linnick v. State Bar (1964) 62 Cal.2d 17, 20 [41 Cal.Rptr. 1, 396 P.2d 33]
Geffen v. Moss (1975) 53 Cal.App.3d 215, 226 [125 Cal.Rptr. 687]
Emmons, Williams, Mires & Leech v. State Bar (1970) 6 Cal.App.3d 565, 570 [86 Cal.Rptr. 367]
Rules of Professional Conduct
Rule 2-101(B), Rules of Professional Conduct (operative until May 26, 1989)
Rule 1-400, Rules of Professional Conduct (operative as of May 27, 1989)
Rubin v. Green (1993) 4 Cal.4th 1187 [17 Cal.Rptr. 2d 828]
Runners and cappers
Business and Professions Code sections 6150 et seq., 6152, 6153 and 6160 et seq.
Rule 2-101(C), Rules of Professional Conduct (operative until May 26, 1989)
Rule 1-400, Rules of Professional Conduct (operative as of May 27, 1989)
attorney agrees to use and compensate for services
Rubin v. Green (1993) 4 Cal.4th 1187 [17 Cal.Rptr.2d 828]
Honoroff v. State Bar (1958) 50 Cal.2d 202, 205 [323 P.2d 1003]
LA 474 (1993)
attorney supplies "capper" with list of potential clients
Business and Professions Code section 6154
Rubin v. Green (1993) 4 Cal.4th 1187 [17 Cal.Rptr.2d 828]
Honoroff v. State Bar (1958) 50 Cal.2d 202, 205 [323 P.2d 1003]
LA 474 (1993)
contract secured by is void
-use of
Rubin v. Green (1993) 4 Cal.4th 1187 [17 Cal.Rptr.2d 828]
Brotherhood of Railroad Trainmen v. VA (1964) 377 U.S. 1 [845 S.Ct. 1113, 12 L. Ed 2d 89]
NAACP v. Button (1963) 371 U.S. 415, 423 [9 L.Ed.2d 405, 83 S.Ct. 328]
Kitsis v. State Bar (1979) 23 Cal.3d 857, 863 [153 Cal.Rptr. 836]
In re Arnoff (1978) 22 Cal.3d 740 [150 Cal.Rptr. 479]
Hildebrand v. State Bar (1950) 36 Cal.2d 504, 506 [225 P.2d 508]
Hutchins v. Municipal Court (1976) 61 Cal.App.3d 77, 83 [132 Cal.Rptr. 158]
People v. Levy (1935) 8 Cal.App.2d Supp. 763, 768
In the Matter of Scapa and Brown (Review Dept. 1993) 2 Cal. State Bar Ct. Rptr. 635
LA 401 (1982)
Seminar
LA 494 (1998)
use of living trust marketer to solicit clients for the attorney
CAL 1997-148

Sign
location
-where no office
LA 134 (1940)
Target mail
Shapiro v. Kentucky Bar Association (1988) 486 U.S. 466 [108 S.Ct. 1916]
In re Morse (1995) 11 Cal.4th 184 [44 Cal.Rptr.2d 620]
People v. Morse (1993) 21 Cal.App.4th 259 [25 Cal.Rptr.2d 816]
statute that places conditions on use of public access of names and addresses of individuals arrested by police is not facially invalid
Los Angeles Police Department v. United Reporting Publishing Corp. (1999) 528 U.S. 32 [120 S.Ct. 483]
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OR 93-001, SD 1992-3
Unauthorized representation
LA 40 (1927), LA(I) 1961-6
Violation of Rules of Professional Conduct, waiver by client
CAL 1988-105
Will
participate in organized drafting
LA 196 (1952)

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Penal Code section 1524(c)
Rule of Court 963
Atkinson-Baker & Associates v. Kolts (1993) 7 F.3d 1452
Gordon, III v. Superior Court (1997) 55 Cal.App.4th 1546 [65 Cal.Rptr.2d 53]
PSC Geothermal Services Co. v. Superior Court (1994) 25 Cal.App.4th 1697 [31 Cal.Rptr.2d 213]
Court's inherent authority to appoint special master to assist in examining documents seized from attorney's offices and in ruling on privilege does not include the power to require parties to bear the cost of a special master's services
People v. Superior Court (Laff) (2001) 25 Cal.4th 703 [107 Cal.Rptr.2d 323]
Oversight of attorney disciplinary system
In re Attorney Discipline System; Requests of the Governor and the State Bar (1999) 19 Cal.4th 582 [79 Cal.Rptr.2d 836, 967 P.2d 49]
Trial court cannot condition its willingness to rule on claims of privilege upon a party's agreement to pay for the services of a special master
People v. Superior Court (Laff) (2001) 25 Cal.4th 703 [107 Cal.Rptr.2d 323]

SPECIALIZATION [See Legal specialization. Practice of law.]

STATE BAR ACT

Business and Professions Code sections 6000-6228. [The full text of the State Bar Act is reprinted above in part I.A. of this Compendium.]
Cross Reference Table
origins of the State Bar Act. [See part I.A. to this Compendium, at Cross Reference Table.]
Historical role of the State Bar
Hirsh v. Justice of the Supreme Court of the State of California (9th Cir. 1995) 67 F.3d 708

STATE BAR OF CALIFORNIA [See Admission to the bar. Ethics committees.]

Business and Professions Code sections 6000-6228
California Constitution, Article 6, section 6
Civil Code section 43.95
Civil Code section 365
Civil Code section 1141.18 (c)
Corporations Code section 10830 (d)
Education Code section 94360
Education Code section 94361
Government Code section 10307
Government Code section 12011.5
Penal Code section 1524
Penal Code section 13825
Revenue and Taxation Code section 2374d
Rule of Court 963

STATUTE OF LIMITATIONS

Offices:

Los Angeles:

1149 South Hill Street
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180 Howard Street
San Francisco, California 94105
Telephone: (415) 538-2000

Advice of a State Bar employee cannot give attorney permission to violate the Rules of Professional Conduct or the Business and Professions Code

Sheffield v. State Bar (1943) 22 Cal.2d 627 [140 P.2d 376]

As an adjunct of the California Supreme Court

Hirsh v. Justices of the Supreme Court of the State of California (1995) 67 F.3d 708
Benjamin J. Ramos dba University of Honolulu School of Law v. California Committee of Bar Examiners (1994) 857 F.Supp.702

In re Rose (2000) 22 Cal.4th 430 [83 Cal.Rptr.2d 298]

Lebbos v. State Bar (1991) 53 Cal.3d 37

Disciplinary authority

In re Rose (2000) 22 Cal.4th 430 [83 Cal.Rptr.2d 298]

In re Gadda (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 416

In re Valinoti (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 498

Dues

Business and Professions Code sections 6140, et. seq.

Ingels v. Riley (1936) 5 Cal.2d 154

government agency can pay "Hudson Fees" portion of the bar dues of agency attorneys

75 Ops. Cal. Atty. Gen. 137 (9/3/92; No. 92-202)

interim Discipline Assessment

In re Attorney Discipline System; Requests of the Governor and the State Bar (1999) 19 Cal.4th 582 [79 Cal.Rptr.2d 836, 967 P.2d 49]

municipality can assess business license fee, notwithstanding State Bar dues

Ingels v. Riley (1936) 5 Cal.2d 154

suspension for non-payment of

Business and Professions Code section 6143

use of bar dues for political activities

Morrow, et al. v. State Bar (9th Cir. 1999) 188 F.3d 1174
Brosterhous v. State Bar (1995) 12 Cal.4th 315 [48 Cal.Rptr.2d 87]

County of Ventura v. State Bar (1995) 35 Cal.App.4th 1055 [41 Cal.Rptr.2d 794]; mod. at 36 Cal.App.4th 822a
Keller v. State Bar (1990) 110 S.Ct. 2228

75 Ops. Cal. Atty. Gen. 137 (9/3/92)

-State Bar of Nevada may use dues to conduct a public information and education campaign on the role of lawyers in the judicial system

Gardner v. State Bar of Nevada (9th Cir. (Nevada) 2002) 284 F.3d 1040

Enforceability of State Bar rules concerning delegates participating in the State Bar Conference of Delegates

Criminal Courts Bar Association v. State Bar of California (1972) 22 Cal.App.3d 681 [99 Cal.Rptr. 661]

Federal courts may require membership in the State Bar of California to assure the character and moral fitness and to bring any misconduct to the attention of the State Bar

Russell v. Hug (9th Cir. 2002) 275 F.3d 812

Legislature cannot impair the judicial functions of the Supreme Court of California

O'Brien, et al. v. Jones, et al. (2000) 23 Cal.4th 40 [96 Cal.Rptr.2d 205, 999 P.2d 95]

State Bar of California v. Superior Court (1929) 208 Cal. 323

Brydonjack v. State Bar (1929) 208 Cal. 439

Minimum Continuing Legal Education Program

no violation of equal protection rights of attorneys

Warden v. State Bar (1999) 21 Cal.4th 628

Greenberg v. State Bar of California (2000) 78 Cal.App.4th 39 [92 Cal.Rptr.2d 493]

Purpose

Brosterhous v. State Bar (1995) 12 Cal.4th 315 [48 Cal.Rptr.2d 87]

State Bar Court

Hirsh v. Justices of the Supreme Court of the State of California (1995) 67 F.3d 708

O'Brien, et al. v. Jones, et al. (2000) 23 Cal.4th 40 [96 Cal.Rptr.2d 205, 999 P.2d 95]

In re Rose (2000) 22 Cal.4th 430 [83 Cal.Rptr.2d 298]

State Bar prosecutors have absolute immunity from monetary liability for performance of prosecutorial functions

Wu v. State Bar of California (C.D. CA 1996) 953 F.Supp. 315

Statutory privileges and immunities protect State Bar and staff from action brought by a disbarred attorney

Rosenthal v. Vogt (1991) 229 Cal.App.3d 69 [280 Cal.Rptr. 1]

Supreme Court on recommendation of State Bar alone may issue disciplinary proceedings against an attorney

Hustedt v. Workers' Compensation Appeals Board (1981) 30 Cal.3d 329 [178 Cal.Rptr. 801, 636 P.2d 1139]

Unified Bar

Morrow, et al. v. State Bar (9th Cir. 1999) 188 F.3d 1174

STATUTE OF LIMITATIONS [See Professional Liability.]

Habeas petition

tolling of habeas petition deadline when prisoner did not have access to file

Lott v. Mueller (9th Cir. 2002) 304 F.3d 918

STIPULATION [See Authority of attorney, stipulation.]

SUBPOENA

Of attorney information regarding client [See Search warrant.]

SUBSTITUTION OF COUNSEL [See Withdrawal.]

Code of Civil Procedure sections 284, 285

Rule 2-111, Rules of Professional Conduct (operative until May 26, 1989)

Rule 3-700, Rules of Professional Conduct (operative as of May 27, 1989)

Abuse of discretion in denying criminal defendant's request for substitution

U.S. v. Torres-Rodriguez (9th Cir. 1991) 930 F.2d 1375

Adverse party

notice of

Code of Civil Procedure section 285

Appeal

Rules 48(b) and 139(b), California Rules of Court

Application for

Code of Civil Procedure section 284

"Appointed" distinguished from "retained" counsel for purposes of determining the right of an indigent defendant to replace an attorney without cause

People v. Turner (1992) 7 Cal.App.4th 1214

Attorney interest in case

Isrin v. Superior Court (1965) 63 Cal.2d 153, 158 [45 Cal.Rptr. 320]

Wright v. Security First National Bank (1939) 13 Cal.2d 139, 141 [88 P.2d 125]

O'Connell v. Superior Court (1935) 2 Cal.2d 418, 423 [41 P.2d 334]

Estate of Cazaurang (1934) 1 Cal.2d 712, 716 [36 P.2d 1069]

Gage v. Atwater (1902) 136 Cal. 170, 172 [68 P. 598]

Hoult v. Beam (1960) 178 Cal.App.2d 736 [3 Cal.Rptr. 191]

Attorney interest in subject matter

Telander v. Telander (1943) 60 Cal.App.2d 207 [140 P.2d 204]

SUBSTITUTION OF COUNSEL

Authority of attorney

Alliance Bank v. Murray (1984) 161 Cal.App.3d 1, 7 [207 Cal.Rptr. 233]

actual authority from client to represent is more important than the substitution document recording it

Baker v. Boxx (1991) 226 Cal.App.3d 1303

In re Marriage of Park (1980) 27 Cal.3d 337 [165 Cal.Rptr. 792, 612 P.2d 882]

attorney had no right to file proposed fee order after discharge and substitution out of case

In re Marriage of Read (2002) 97 Cal.App.4th 476 [118 Cal.Rptr.2d 497]

disagreement between attorney and client as to which motions to file is not a sufficient reason to require substitution

People v. Tumer (1992) 7 Cal.App.4th 913

Client has absolute right to

General Dynamics v. Superior Court (1994) 7 Cal.4th 1164 [876 P.2d 487]

Santa Clara County Counsel Attorneys Assn. v. Woodside (1994) 7 Cal.4th 525

Kallen v. Delug (1984) 157 Cal.App.3d 940, 950 [203 Cal.Rptr. 879]

Fracasse v. Brent (1972) 6 Cal.3d 784, 790

In the Matter of Phillips (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 315

discharge retained counsel in criminal case

People v. Lara (2001) 86 Cal.App.4th 139 [103 Cal.Rptr.2d 201]

LA 489 (1997), LA 481, CAL 1994-134

Conflict of interest

People v. Harden (1982) 132 Cal.App.3d 622, 629 [183 Cal.Rptr. 252]

Conflicts of clients in different proceedings

Levensen v. Superior Court (1983) 34 Cal.3d 530

Consent to

Code of Civil Procedure section 284

SD 1972-17

Contingent fee agreement

Tracy v. MacIntyre (1938) 29 Cal.App.2d 145 [84P.2d 526]

Court order

Code of Civil Procedure section 284

Death of attorney

Code of Civil Procedure section 286

Denial of criminal defendant's motion for substitution of counsel without first conducting proper inquiry is abuse of discretion

U.S. v. Adelzo-Gonzalez (9th Cir. 2001) 268 F.3d 772

Dissolution of a corporation or partnership

Fox v. Abrams (1985) 163 Cal.App.3d 610 [210 Cal.Rptr. 260]

Duty to represent client until obtain court approval, if required

In re Jackson (1985) 170 Cal.App.3d 773 [216 Cal.Rptr. 539]

Excusable neglect not found when attorney fails to file for trial de novo as a result of taking over a large case load from another attorney including the arbitration matter

Ayala v. Southwest Leasing and Rental (1992) 7 Cal.App.4th 40 [8 Cal.Rptr.2d 637]

Failure to file substitution form constitutes negligence and may not be imputed to the client

Gallegos v. Gallegos (1994) 23 Cal.App.4th 68 [28 Cal.Rptr.2d 350]

In propria se

*People v. Smith (1984) 152 Cal.App.3d 618, 622 [199 Cal.Rptr. 656]

Local rule of substitution

Hock v. Superior Court of San Diego County (1990) 221 Cal.App.3d 670 [270 Cal.Rptr. 579]

Motion made one day before trial scheduled

People v. Yackee (1984) 161 Cal.App.3d 843 [208 Cal.Rptr. 44]

New attorney's authority

Estate of Hultin (1974) 29 Cal.2d 825 [178 P.2d 756]

Wells Fargo & Co. v. San Francisco (1944) 25 Cal.2d 37 [152 P.2d 625]

McMahion v. Thomas (1896) 114 Cal. 588 [46 P. 732]

Carrara v. Carrara (1953) 121 Cal.App.2d 59 [262 P.2d 591]

Ross v. Ross (1953) 120 Cal.App.2d 70 [260 P.2d 652]

Davis v. Rudolph (1947) 80 Cal.App.2d 397 [181 P.2d 765]

Jackson v. Jackson (1945) 71 Cal.App.2d 837 [163 P.2d 780]

Estate of Morgan (1928) 94 Cal.App. 617 [271 P. 762]

McMunn v. Lehrke (1915) 29 Cal.App. 298 [155 P. 473]

Notice

Code of Civil Procedure section 284

Ramirez v. Sturdevant (1994) 21 Cal.App.4th 904 [26 Cal.Rptr.2d 554]

Santa Clara County Counsel Attorneys Assn. v. Woodside (1994) 7 Cal.4th 525

In re Martinez (1959) 52 Cal.2d 808, 813 [345 P.2d 449]

Echlin v. Superior Court (1939) 13 Cal.2d 368, 372 [90 P.2d 63]

Wright v. Security First National Bank (1939) 13 Cal.2d 139, 141 [88 P.2d 125]

O'Connell v. Superior Court (1935) 2 Cal.2d 418 [41 P.2d 334]

Scott v. Superior Court (1928) 205 Cal. 525 [271 P. 906]

Todd v. Superior Court of San Francisco (1919) 181 Cal. 406, 411-413 [184 P. 684]

Gage v. Atwater (1902) 136 Cal. 170, 172 [68 P. 581]

Rundberg v. Belcher (1897) 118 Cal. 589 [50 P. 670]

Lee v. Superior Court (1896) 112 Cal. 354 [44 P. 666]

Ex parte Clarke (1881) 62 Cal. 490

In re Marriage of Warner (1974) 38 Cal.App.3d 714 [113 Cal.Rptr. 556]

People v. Ward (1972) 27 Cal.App.3d 218, 231 [103 Cal.Rptr. 671]

People v. Cohen (1970) 12 Cal.App.3d 298, 319 [90 Cal.Rptr. 612]

Skelly v. Richman (1970) 10 Cal.App.3d 844, 856 [89 Cal.Rptr. 556]

Cloer v. Superior Court (1969) 271 Cal.App.2d 143, 145 [76 Cal.Rptr. 217]

People v. Donel (1967) 255 Cal.App.2d 394, 401 [63 Cal.Rptr. 168]

People ex rel Department of Public Works v. Hook (1967) 248 Cal.App.2d 618, 623 [56 Cal.Rptr. 683]

Estate of McManus (1963) 214 Cal.App.2d 390, 395 [29 Cal.Rptr. 543]

People v. Metrim Corp. (1960) 187 Cal.App.2d 289, 292 [9 Cal.Rptr. 584]

Hoult v. Beam (1960) 178 Cal.App.2d 736, 738 [3 Cal.Rptr. 191]

Bergan v. Badham (1956) 142 Cal.App.2d Supp. 855 [297 P.2d 815]

Sherman v. Panno (1954) 129 Cal.App.2d 375 [277 P.2d 80]

Metzenbaum v. Metzenbaum (1953) 115 Cal.App.2d 771, 775 [252 P.2d 1014]

Tracy v. MacIntyre (1938) 29 Cal.App.2d 145, 148 [84 P.2d 526]

Foster v. Superior Court (1938) 26 Cal.App.2d 230, 233 [79 P.2d 144]

Atchinson v. Hulse (1930) 107 Cal.App. 640, 644 [290 P. 916]

Warden v. Lamb (1929) 98 Cal.App. 738 [277 P. 867]

Security Bank etc. Co. v. Wilbur (1922) 56 Cal.App. 604 [205 P. 886]

CAL 1994-134

Notice of

change of attorney

Code of Civil Procedure section 284

death of attorney

-replacement after

Code of Civil Procedure section 286

suspension of attorney

Aldrich v. San Fernando Valley Lumber Co. (1985) 170 Cal.App.3d 725, 741 [216 Cal.Rptr. 300]

to adverse party

Code of Civil Procedure section 285

SUIT AGAINST CLIENT

- Notice of substitution
 - Gill v. Southern Pacific Co. (1916) 174 Cal. 84 [161 P. 1153]
- On motion of trial court
 - People v. Lucev (1986) 188 Cal.App.3d 551, 556
 - on request of criminal defendant
 - South v. Superior Court (1986) 188 Cal.App.3d 1055, 1060
- Original attorney's authority
 - People v. Bouchard (1957) 49 Cal.2d 438 [317 P.2d 971]
 - Reynolds v. Reynolds (1943) 21 Cal.2d 580 [134 P.2d 251]
 - In re Marriage of Borson (1974) 37 Cal.App.3d 632 [112 Cal.Rptr. 432]
 - People v. Hook (1967) 248 Cal.App.2d 618 [56 Cal.Rptr. 683]
 - Sherman v. Panno (1954) Cal.App.2d 129, 375 [277 P.2d 80]
- Pre-signed substitution forms
 - LA 371 (1977)
- Procedure
 - Rule 48(b), California Rules of Court
 - Code of Civil Procedure section 284
 - Ramirez v. Sturdevant (1994) 21 Cal.App.4th 904 [26 Cal.Rptr.2d 554]
 - Echlin v. Superior Court (1939) 13 Cal.2d 368 [90 P.2d 63]
 - Wright v. Security etc. Bank (1939) 13 Cal.2d 139 [88 P.2d 125]
 - O'Connell v. Superior Court (1935) 2 Cal.2d 418 [41 P.2d 334]
 - Estate of Cazaurang (1934) 1 Cal.2d 712 [36 P.2d 1069]
 - Scott v. Superior Court (1928) 205 Cal. 525 [271 P. 906]
 - Rundberg v. Belcher (1897) 118 Cal. 589 [50 P. 670]
 - Smith v. Whittier (1892) 95 Cal. 279 [30 P. 529]
- Refusal to execute
 - Kallen v. Delug (1984) 157 Cal.App.3d 940, 950-951 [203 Cal.Rptr. 463]
- Removal of
 - appointment of replacement on
 - Code of Civil Procedure section 286
- Replacement of
 - on death of attorney
 - Code of Civil Procedure section 286
 - on removal of
 - Code of Civil Procedure section 286
 - on retirement of attorney
 - Code of Civil Procedure section 286
 - on suspension of attorney
 - Code of Civil Procedure section 286
 - Aldrich v. San Fernando Lumber Co. (1985) 170 Cal.App.3d 725, 741 [216 Cal.Rptr. 300]
 - on termination of services
 - Code of Civil Procedure section 286
- Retirement of attorney
 - notice of replacement of, on
 - Code of Civil Procedure section 286
- Scheduling conflict
 - People v. Harden (1982) 132 Cal.App.3d 622, 629
- Shareholder who leaves firm has no ownership or lien interest upon fees owed to firm by client
 - City of Morgan Hill v. Brown (1999) 71 Cal.App.4th 1114 [84 Cal.Rptr.2d 361]
 - Crouse v. Brobeck, Phleger & Harrison (1998) 67 Cal.App.4th 1509 [80 Cal.Rptr.2d 94]
- Signed by client at outset of employment
 - improper
 - LA 371 (1977)
- Substituted counsel
 - diligence of new counsel substituted in at the last minute
 - Yao v. Anaheim Eye Medical Group, Inc. (1992) 10 Cal.App. 4th 1024 [12 Cal.Rptr.2d 856]
 - duty with respect to client's file
 - LA(l) 1964-5, LA(l) 1959-4
 - SD 1970-3, SF 1975-4
 - fee
 - contingent
 - LA 50 (1927)
- may recover for full performance under employment contract
 - Di Loreto v. O'Neill (1991) 1 Cal.App.4th 149
- notice to
 - LA 183 (1951), LA 154 (1945)
- Substituting counsel
 - borrowed file of client's returned to substituted counsel
 - LA 253 (1958)
- Suspension of attorney
 - notice of replacement of
 - Code of Civil Procedure section 286
- Termination of services
 - Code of Civil Procedure section 286
- Timeliness of motion for
 - United States v. Moore (9th Cir. 1998) 159 F.3d 1154
- Trial court denial of motion to substitute, denies right to effective assistance of counsel
 - Schell v. Witek (1999) 181 F.3d 1094
- Withdrawal in domestic actions
 - Code of Civil Procedure section 285.1
- SUIT AGAINST CLIENT** [See Fee, unpaid.]
 - Dismiss one party's in order to enhance chances of other
 - LA(l) 1968-6
 - For unpaid fee
 - LA 476 (1994), LA 407 (1982), LA 362 (1976), LA 212 (1953), LA 109 (1936)
- SURVEILLANCE**
 - Undercover surveillance of opposing party
 - LA 315 (1970)
- SUSPENSION** [See Disabled lawyer. Disbarment. Resignation.]
 - Duties of suspended lawyer
 - Rule 955, California Rules of Court
 - Failure to comply with Rule of Court 955
 - Shapiro v. State Bar (1990) 51 Cal.3d 251 [794 P.2d 572]
 - Standard 1.4(c)(ii) proceeding for relief from actual suspension
 - alcohol and drug addiction brought under control
 - In the Matter of Terrones (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 289
 - not a reinstatement proceeding
 - In the Matter of Terrones (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 289
 - petitioner's burden of proof, preponderance of the evidence
 - In the Matter of Terrones (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 289
 - standard of review
 - abuse of discretion or error of law
 - In the Matter of Terrones (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 289
 - substantial evidence supported hearing judge's findings
 - In the Matter of Terrones (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 289
 - summary nature of proceeding
 - In the Matter of Terrones (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 289
 - Suspended attorney
 - authority to represent party in litigation
 - Aldrich v. San Fernando Valley Lumber Co. (1985) 170 Cal.App.3d 725, 741 [216 Cal.Rptr. 300]
 - discipline may be aggravated if attorney fails to take all steps necessary, short of practicing law, to protect client's interest
 - In the Matter of Taylor (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 563
 - must be licensed at time services performed to recover fees
 - Hardy v. San Fernando Valley Chamber of Commerce (1950) 99 Cal.App.2d 572, 576 [222 P.2d 314]
 - referrals from
 - LA(l) 1937-1
 - share office with
 - LA(l) 1937-1

TAX

TAX

Failure of attorney to pay

In re Fahey (1973) 8 Cal.3d 842, 849-854

Fees paid directly to plaintiff's counsel by defendant pursuant to ADEA's fee-shifting provision is taxable income to plaintiff

Sinyard v. Commissioner of Internal Revenue (9th Cir. 2001) 268 F.3d 756

TEACHING [See Business activity. Educational activity. Judge. Law practice.]

TERMINATION OF ATTORNEY-CLIENT RELATIONSHIP [See Substitution of counsel. Withdrawal from employment.]

Rule 2-111, Rules of Professional Conduct (operative until May 26, 1989)

Rule 3-700, Rules of Professional Conduct (operative as of May 27, 1989)

By client [See Discharge of attorney by client.]

Compliance with Rule 955, California Rules of Court, in connection with disbarment

Bercovich v. State Bar (1990) 50 Cal.3d 116

Conflict of interest

People v. Harden (1982) 132 Cal.App.3d 622, 629 [183 Cal.Rptr. 252]

Death or incapacity of attorney

appeal from judgment not extended by death of the attorney

Voinich v. Poe (1921) 52 Cal.App. 597 [199 P. 74]

Code of Civil Procedure section 286 requires notice to a party that his attorney has died

California Water Service v. Sidebotham & Son (1964) 224 Cal.App.2d 715 [37 Cal.Rptr. 1]

death of one member of the firm leaves option to consider employment terminated

Little v. Caldwell (1894) 101 Cal. 553 [36 P. 107]

party whose attorney has ceased to act must appoint new attorney

Unwin v. Barstow-San Antonio Oil Co. (1918) 36 Cal.App. 508 [172 P. 622]

written notice required by adverse party to appoint another attorney

Code of Civil Procedure section 286

Larkin v. Superior Court (1916) 176 Cal. 719 [154 P. 841]

Death or incapacity of client

LA 300

death of client-defendant terminates attorney's authority to represent him in a suit

Swartfager v. Wells (1942) 53 Cal.App.2d 522 [128 P.2d 128]

insanity or incapacity of client terminates authority of attorney

Sullivan v. Dunne (1926) 198 Cal. 183 [244 P. 343]

relation of attorney-client not terminated by death of client in a special contract of employment

Estate of Malloy (1929) 99 Cal.App. 96 [278 P. 488]

retention or destruction of files

LA 491 (1997)

Dependency proceeding

inability to provide competent legal services because of disagreement with a minor client

LA 504 (2000)

Discharge of attorney by client

absolute right to discharge

General Dynamics v. Superior Court (1994) 7 Cal.4th 1164 [876 P.2d 487]

Fracasse v. Brent (1972) 6 Cal.3d 784 [100 Cal.Rptr. 385, 494 P.2d 9]

CAL 1994-134

LA 489 (1997), LA 481

-attorney in an action may be changed at any time

Gage v. Atwater (1902) 136 Cal. 170 [68 P. 581]

-executors had absolute right to change attorneys at any stage of probate proceedings

Estate of McManus (1963) 214 Cal.App.2d 390 [29 Cal.Rptr. 543]

-if discharged without cause, client liable for compensation and damages

Echlin v. Superior Court (1939) 13 Cal.2d 368 [90 P.2d 63]

-may change attorneys at any stage of action even if contingent fee exists

Estate of Cazaurang (1934) 1 Cal.2d 712 [36 P.2d 1069]

-may discharge attorney at any time unless attorney has vested interest

Kirk v. Culley (1927) 202 Cal. 501 [261 P. 994]

-plaintiff was without authority to substitute an attorney adverse to interests of associates

Scott v. Donahue (1928) 93 Cal.App. 256 [269 P. 774]

-retained attorney in criminal case

People v. Lara (2001) 86 Cal.App.4th 139 [103 Cal.Rptr.2d 201]

-right of a litigant to change attorneys at any stage of a proceeding

Estate of Hardenberg (1936) 6 Cal.2d 371 [57 P.2d 914]

-right to change attorney at any state in action absence any relation of attorney to subject matter

Meadow v. Superior Court (1963) 59 Cal.2d 610 [30 Cal.Rptr. 824, 381 P.2d 648]

-right to discharge attorney even if attorney rendered valuable services

O'Connell v. Superior Court (1935) 2 Cal.2d 418 [41 P.2d 334]

-to prohibit discharge, attorney must have a "power coupled with an interest"

People v. Metrim Corp (1960) 187 Cal.App.2d 289 [9 Cal.Rptr. 584]

-wrongfully discharged under contingent fee contract entitled same compensation as if completed contemplated services

Herron v. State Farm Mut. Ins. Co. (1961) 56 Cal.2d 202 [14 Cal.Rptr. 294, 363 P.2d 310]

criminal matters

CCP section 284

-client's motion to discharge counsel does not require showing of incompetency

People v. Ortiz (1989) 210 Cal.App.3d 833 [258 Cal.Rptr. 581]

-right to discharge retained counsel

People v. Lara (2001) 86 Cal.App.4th 139 [103 Cal.Rptr.2d 201]

duty is not dissolved

-corporate attorney cannot take sides in a serious dispute between owners (dissolution)

Woods v. Superior Court (1983) 149 Cal.App.3d 931 [197 Cal.Rptr. 185]

minimal duties of attorney

In the Matter of Dahlz (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 269

power coupled with an interest

-agreement did not result in a contract coupled with an interest

Fields v. Potts (1956) 140 Cal.App.2d 697 [295 P.2d 965]

-contingent fee contract and assignment were ineffectual to create a power coupled with an interest

Estate of Cazaurang (1934) 1 Cal.2d 712 [36 P.2d 1069]

-interest must be specific, must be in the subject matter of the litigation and must be beneficial

Redevelopment Agency v. Superior Court (1961) 195 Cal.App.2d 591 [16 Cal.Rptr. 45]

-interest not created by execution of a contingent fee contract

Bandy v. Mt. Diablo Unified School Dist. (1976) 56 Cal.App.3d 230 [126 Cal.Rptr. 890]

TESTIMONY

-must be a specific, present, and coexisting interest in the subject of the power or agency

O'Connell v. Superior Court (1935) 2 Cal.2d 418 [41 P.2d 334]

-must be an interest in the thing itself

Scott v. Superior Court (1928) 205 Cal. 525 [271 P. 906]

-no exception when the relation of the attorney to subject matter arises from his employment

Telander v. Telander (1943) 60 Cal.App.2d 207 [140 P.2d 204]

unwarranted discharge by court

-order preventing attorneys from representing clients contrary to wishes of all those involved

Cloer v. Superior Court (1969) 271 Cal.App.2d 143 [76 Cal.Rptr. 217]

-over attorney's and defendant's consistent and repeated objections

Smith v. Superior Court (1968) 68 Cal.2d 547 [68 Cal.Rptr. 1, 440 P.2d 65]

Dismissal of case may not terminate attorney-client relationship
In the Matter of Whitehead (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 354

Objective standard governs end of relationship

Worthington v. Rusconi (1994) 29 Cal.App.4th 1488 [35 Cal.Rptr.2d 169]

Scheduling conflict

People v. Harden (1982) 132 Cal.App.3d 622, 629 [183 Cal.Rptr. 252]

Undue influence

attorney used party's financial entanglements to coerce an agreement with plaintiff

Donnelly v. Ayer (1986) 183 Cal.App.3d 978, 984 [228 Cal.Rptr. 764]

TESTIMONY [See Witness.]

Copy of results of discovery given to lawyer with some interest in the matter

LA(l) 1965-16

THIRD PARTY [See Client Trust Account. Conflict of Interest, Fee, paid by third party. Duties of attorney. Liens. Professional liability.]

THREATENING ADMINISTRATIVE ACTION WITH EEOC

CAL 1984-81

THREATENING CRIMINAL PROSECUTION

Rule 7-104, Rules of Professional Conduct (operative until May 26, 1989)

Rule 5-100, Rules of Professional Conduct (operative as of May 27, 1989)

Crane v. State Bar (1981) 30 Cal.3d 117, 123 [177 Cal.Rptr. 670, 635 P.2d 163]

Bluestein v. State Bar (1974) 13 Cal.3d 162, 166-170 [118 Cal.Rptr. 175, 529 P.2d 599]

Arden v. State Bar (1959) 52 Cal.2d 310, 314-315, 320-321 [341 P.2d 6]

Libarian v. State Bar (1952) 38 Cal.2d 328, 328-329 [239 P.2d 865]

Lindenbaum v. State Bar (1945) 26 Cal.2d 565, 566-573 [160 P.2d 9]

Ross v. Creel Printing & Publishing Co. (2002) 100 Cal.App.4th 736 [122 Cal.Rptr.2d 787]

Kinnamon v. Staitman & Snyder (1977) 66 Cal.App.3d 893, 894-897 [136 Cal.Rptr. 321]

LA 469 (1992)

Client of attorney

bad check for fees

LA 5 (1918)

Disciplinary action

attorney may not advise client to do what attorney may not do

CAL 1983-73

LA 469 (1992)

In attempt to collect fees due and owing

Bluestein v. State Bar (1974) 13 Cal.3d 162, 166-170 [118 Cal.Rptr. 175, 529 P.2d 599]

Public prosecutor

CAL 1989-106, SF 1975-6

Statement that "all available legal remedies will be pursued" may not be improper

CAL 1991-124

TRADE NAME [See Advertising, fictitious name. Practice of law, fictitious name.]

Business and Professions Code section 6164]

TRIAL CONDUCT

Business and Professions Code sections 6068(b), (c), (d), (g) Rules 7-105, 7-106, 7-107, and 7-108, Rules of Professional Conduct (operative until May 26, 1989)

Rules 5-200, 5-320, 5-310, and 5-300, Rules of Professional Conduct (operative as of May 27, 1989)

Absence of attorney during jury deliberations not prejudicial to appellant

People v. Nunez (1983) 144 Cal.App.3d 697 [192 Cal.Rptr. 788]

Administration of justice

attempted interference with

Noland v. State Bar (1965) 63 Cal.2d 298, 302 [46 Cal.Rptr. 305, 405 P.2d 129]

In the Matter of Chestnut (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 166

Admonishment of defense counsel by trial court in front of jury was proper for numerous instances of misconduct amounting to unprofessional conduct throughout course of trial

People v. Chong (1999) 76 Cal.App.4th 232 [90 Cal.Rptr.2d 198]

Advising client to disobey court order

Hawk v. Superior Court (1974) 42 Cal.App.3d 108, 117 [116 Cal.Rptr. 713]

Advocacy of counsel

money sanctions for violation of lawful court order not applicable to

Code of Civil Procedure section 177.5

Altering copy of court order

Lebbos v. State Bar (1991) 53 Cal.3d 37

Altering evidence in criminal trial

Price v. State Bar (1982) 30 Cal.3d 537 [179 Cal.Rptr. 914, 638 P.2d 1311]

Attorney admitted to Supreme Court Bar in order to represent self in appeal from sanctions imposed by 9th Circuit

In the Matter of Admission of Christopher A. Brose (1983) 77 L.Ed.2d 1360

Attorney misconduct must sufficiently permeate an entire proceeding and affect result

McKinley v. City of Eloy (9th Cir. 1983) 705 F.2d 1110, 1117

Attorney sanctions for frivolous appeal

In re Marriage of Flaherty (1982) 31 Cal.3d 637 [183 Cal.Rptr. 508, 646 P.2d 179]

DeRose v. Heurlin (2002) 100 Cal.App.4th 158 [122 Cal.Rptr.2d 630]

Simonian v. Patterson (1994) 27 Cal.App.4th 773 [32 Cal.Rptr.2d 722]

Bank of America v. Henkin (1986) 185 Cal.App.3d 919 [230 Cal.Rptr. 113]

In re Scott (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 446

Business and Professions Code section 6068(b)

accusing judge of lack of integrity

People v. Chong (1999) 76 Cal.App.4th 232 [90 Cal.Rptr.2d 198]

In re Siegel (1975) 45 Cal.App.3d 843, 845 [120 Cal.Rptr. 8]

advising client to violate court order

Hawk v. Superior Court (1974) 42 Cal.App.3d 108, 126 [116 Cal.Rptr. 713]

arguing to jury that goal of defense and prosecution counsel is to misrepresent facts

Hanson v. Superior Court of Siskiyou County (2001) 91 Cal.App.4th 75 [109 Cal.Rptr.2d 782]

TRIAL CONDUCT

- disrespectful reference to defense attorney
 - prosecutor effectively calling defense attorney a liar
United States v. Rodrigues (9th Cir. 1998) 159 F.3d 439
- disrespectful reference to prosecutor
Hanson v. Superior Court of Siskiyou County (2001) 91 Cal.App.4th 75 [109 Cal.Rptr.2d 782]
People v. Chong (1999) 76 Cal.App.4th 232 [90 Cal.Rptr.2d 198]
Hawk v. Superior Court (1974) 42 Cal.App.3d 108, 129 [116 Cal.Rptr. 713]
- disrespectful remarks concerning judge
Hogan v. State Bar (1951) 36 Cal.2d 807, 810 [228 P.2d 554]
People v. Chong (1999) 76 Cal.App.4th 232 [90 Cal.Rptr.2d 198]
- falsely maligning appellate court judges
Ramirez v. State Bar (1980) 28 Cal.3d 402, 412 [169 Cal.Rptr. 206, 619 P.2d 399]
- impugning integrity of prosecutor and legal profession
Hanson v. Superior Court of Siskiyou County (2001) 91 Cal.App.4th 75 [109 Cal.Rptr.2d 782]
- knowingly presenting falsified check
Reznik v. State Bar (1969) 1 Cal.3d 198, 203 [81 Cal.Rptr. 769, 460 P.2d 969]
- no discipline for factual statements unless the State Bar proves that such statements are false
Standing Committee on Discipline of the United States District Court v. Yagman (9th Cir. 1995) 55 F.3d 1430
In the Matter of Anderson (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 775
- no discipline for rhetorical hyperbole incapable of being proved true or false
Standing Committee on Discipline of the United States District Court v. Yagman (9th Cir. 1995) 55 F.3d 1430
In the Matter of Anderson (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 775
- repeated statements in pleadings and letters that impugned the integrity of numerous judges
In the Matter of Anderson (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 775
- series of offensive statements against judges and others
Lebbos v. State Bar (1991) 53 Cal.3d 37
People v. Chong (1999) 76 Cal.App.4th 232 [90 Cal.Rptr.2d 198]
- unwarranted charges of bias against superior court judges
Snyder v. State Bar (1976) 18 Cal.3d 286, 292 [133 Cal.Rptr. 864, 555 P.2d 1104]
- Business and Professions Code section 6068(d)
 affirmative false representation actionable even though no harm results
Scofield v. State Bar (1965) 62 Cal.2d 624, 628 [43 Cal.Rptr. 825, 401 P.2d 217]
- attorney never directly asked by court, not guilty of intentionally misleading court by not expressly revealing facts
Clark v. State Bar (1952) 39 Cal.2d 161, 174 [246 P.2d 1] OR 95-001
- citing case known not to be controlling, failure to cite known controlling case
Shaeffer v. State Bar (1945) 26 Cal.2d 739, 747 [160 P.2d 825]
- concealing known material letter from court
Sullins v. State Bar (1975) 15 Cal.3d 609, 620 [125 Cal.Rptr. 471, 542 P.2d 631]
- concealment of known material information
In the Matter of Chestnut (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 166
In the Matter of Jeffers (Review Dept. 1994) 3 Cal. State Bar Ct. Rptr. 211
Griffis v. S.S. Kresge Company (1984) 150 Cal.App.3d 491 [197 Cal.Rptr. 771] OR 95-001
- counsel married to bailiff/ court reporter
 CAL 1987-93
- disrespectful reference to prosecutor
Hanson v. Superior Court of Siskiyou County (2001) 91 Cal.App.4th 75 [109 Cal.Rptr.2d 782]
Hawk v. Superior Court (1974) 42 Cal.App.3d 108, 129 [116 Cal.Rptr. 713]
- disrespectful remarks concerning judge
Hogan v. State Bar (1951) 36 Cal.2d 807, 810 [228 P.2d 554]
- duty to disclose possible violation of court order by third party, no duty found
 LA 394 (1982)
- failure to disclose material facts
Rodgers v. State Bar (1989) 48 Cal.3d 300 [256 Cal.Rptr. 381, 768 P.2d 1058]
Di Sabatino v. State Bar (1980) 27 Cal.3d 159, 162 [162 Cal.Rptr. 458, 606 P.2d 765]
In the Matter of Chestnut (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 166
*Matter of Harney (Review Dept. 1995) 3 Cal. State Bar Ct. Rptr. 266
In the Matter of Jeffers (Review Dept. 1994) 3 Cal. State Bar Ct. Rptr. 211 OR 95-001
- falsely maligning appellate court judges
Ramirez v. State Bar (1980) 28 Cal.3d 402, 412 [169 Cal.Rptr. 206, 619 P.2d 399]
- falsely maligning prosecutor and legal profession
Hanson v. Superior Court of Siskiyou County (2001) 91 Cal.App.4th 75 [109 Cal.Rptr.2d 782]
- knowingly allowing client to testify falsely
People v. Pike (1962) 58 Cal.2d 70, 97 [22 Cal.Rptr. 664, 372 P.2d 656]
- law firm representing corporation has duty to disclose to the court and to opposing counsel corporate client's suspended status
Palm Valley Homeowners Association v. Design MTC (2000) 85 Cal.App.4th 553 [102 Cal.Rptr.2d 350]
- misleading judge by concealment of request for continuance
Grove v. State Bar (1965) 63 Cal.2d 312, 315 [46 Cal.Rptr. 513, 405 P.2d 553] OR 95-001
- misleading judge through the use of misleading, inaccurate, and incomplete responses to discovery requests and presentation of fraudulent evidence
Pumphrey v. K.W. Thompson Tool Co. (9th Cir. 1995) 62 F.3d 1128
- misleading judge through failure to disclose, filing false documents
Eschwig v. State Bar (1969) 1 Cal.3d 8, 17 [81 Cal.Rptr. 352, 459 P.2d 904]
Bryan v. Bank of America (2001) 86 Cal.App.4th 185 [103 Cal.Rptr.2d 148]
In the Matter of Chestnut (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 166
In the Matter of Moriarty (Review Dept. 1999) 4 Cal. State Bar Ct. Rptr. 9
- misleading judge through knowing concealment of material facts
Best v. State Bar (1962) 57 Cal.2d 633 [21 Cal.Rptr. 589, 371 P.2d 325]
In the Matter of Chestnut (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 166 OR 95-001
- misrepresentations made to the opposing counsel and the court
 LA 482 (1995), OR 95-001
- naming a person as a plaintiff in a lawsuit without the person's knowledge or consent
In the Matter of Shinn (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 96
Lebbos v. State Bar (1991) 53 Cal.3d 37
- no duty to disclose assistance to an in propria persona litigant unless a court rule requires disclosure
 LA 502 (1999)

TRIAL CONDUCT

- offensive gender based remarks to a government attorney
United States v. Wunsch (9th Cir. 1996) 84 F.3d 1110
- offensive references to opposing parties and counsel
Snyder v. State Bar (1976) 18 Cal.3d 286, 292 [133 Cal.Rptr. 864, 555 P.2d 1104]
- offering false evidence, subornation of perjury
In re Jones (1971) 5 Cal.3d 390, 400 [96 Cal.Rptr. 448, 487 P.2d 1016]
- presentation of known false fact presumes intent to deceive
Vaughn v. Municipal Court (1967) 252 Cal.App.2d 348, 358 [60 Cal.Rptr. 575]
- presentation of known false fact which tends to mislead sufficient for violation
Vickers v. State Bar (1948) 32 Cal.2d 247, 253 [196 P.2d 10]
- presenting documents containing known false allegations
Snyder v. State Bar (1976) 18 Cal.3d 286, 291 [133 Cal.Rptr. 864, 555 P.2d 1104]
- pretended non-participation in fraudulent claim made to insurance company
People v. Benson (1962) 206 Cal.App.2d 519, 531 [23 Cal.Rptr. 908]
- violation found even if attempt to mislead is unsuccessful
In the Matter of Chestnut (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 166
- Business and Professions Code section 6068(f)
unconstitutional vagueness of "offensive personality"
United States v. Wunsch (9th Cir. 1996) 84 F.3d 1110
In the Matter of Anderson (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 775
- Candor
 - duty of
 - advise adversary of contribution to campaign committee of presiding judge in case
LA 387 (1981)
 - disclosure
 - counsel married to bailiff
CAL 1987-93
 - counsel married to court reporter
CAL 1987-93
 - that client cannot be located
CAL 1989-111
 - in admission proceedings
State Bar v. Lambert (1954) 43 Cal.2d 636, 642 [276 P.2d 596]
 - in attorney disciplinary proceedings
Barreiro v. State Bar (1970) 2 Cal.3d 912, 926 [88 Cal.Rptr. 192, 471 P.2d 992]
In re Honoroff (1958) 50 Cal.2d 202, 210 [323 P.2d 1003]
Burns v. State Bar (1955) 45 Cal.2d 296, 303 [288 P.2d 514]
In the Matter of Chestnut (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 166
In the Matter of Johnson (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 179
 - in criminal matter defense counsel must turn over to law enforcement cash received from a client which are the actual bills used in a crime
LA 466 (1991)
- Citing as controlling law a case not in point
Shaeffer v. State Bar (1945) 26 Cal.2d 739, 747 [160 P.2d 825]
- Citing unpublished opinions
California Rules of Court, Rule 977
In the Matter of Mason (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 639
- Ninth Circuit Rule 36-3(b), no sanctions ordered
Hart v. Massanari (9th Cir. 2001) 266 F.3d 1155
Sorchini v. City of Covina (9th Cir. 2001) 250 F.3d 706
- Client's role
People v. Davis (1984) 161 Cal.App.3d 796, 802-804 [207 Cal.Rptr. 846]
- Closing argument
 - defense counsel prohibited from expressing opinion as to defendant's innocence
People v. Tyler (1991) 231 Cal.App.3d 1692 [283 Cal.Rptr. 268]
 - prejudicial statement made during
United States v. Rodrigues (9th Cir. 1998) 159 F.3d 439
Menasco v. Snyder (1984) 157 Cal.App.3d 736 [203 Cal.Rptr. 842]
- Communication with judge ex parte
 - filing brief without knowledge of opposing counsel
LA 56 (1928)
 - trial court had no authority to impose sanctions for attorney's ex parte request to set date for status conference
Blum v. Republic Bank (1999) 73 Cal.App.4th 245 [86 Cal.Rptr.2d 226]
- Communication with juror
CAL 1988-100, CAL 1976-39
- Communication with member of grand jury
Matter of Tyler (1884) 64 Cal. 434 [1 P. 884]
- Contempt of court
 - appointment of counsel as "advisor" to criminal defendant
 - refusal to accept
Chaleff v. Superior Court (1977) 69 Cal.App.3d 721 [138 Cal.Rptr. 735]
 - attorney assists husband to assist subpoena service
In re Holmes (1983) 145 Cal.App.3d 934
 - defense attorney's isolated reference to the possible penalty did not warrant summary contempt
Watson v. Block (9th Cir. 1996) 102 F.3d 433
 - due process requires that reasonable notice be given as to the charges and the opportunity to be heard
Little v. Kern County Superior Court (2002) 294 F.3d 1075
 - filing of a false affidavit of disqualification against judge
Fine v. Superior Court (2002) 97 Cal.App.4th 651 [119 Cal.Rptr.2d 376]
 - indirect contempt
 - presiding judge may defer contempt adjudication to another judge
Hanson v. Superior Court of Siskiyou County (2001) 91 Cal.App.4th 75 [109 Cal.Rptr.2d 782]
- Court order
 - appointment of counsel as "advisor" to criminal defendant
 - refusal to accept
In re Ronald A. Jackson (1985) 170 Cal.App.3d 773 [216 Cal.Rptr. 539]
Chaleff v. Superior Court (1977) 69 Cal.App.3d 721 [138 Cal.Rptr. 735]
 - compliance with to produce privileged material
 - test validity of court order
Roberts v. Superior Court (1973) 9 Cal.3d 330, 335-336 [107 Cal.Rptr. 309, 508 P.2d 309]
 - disobedience of void court order
Maltaman v. State Bar (1987) 43 Cal.3d 924
- Court order, violation of
 - money sanctions
 - not applicable to advocacy of counsel
Code of Civil Procedure section 177.5
- Criminal proceedings
 - failure to file timely notice of appeal
 - recusal of lawyer for conflict of interest
In re Fountain (1977) 74 Cal.App.3d 715 [141 Cal.Rptr. 654]
 - gender based peremptory challenge of venire persons violates Equal Protection Clause
United States v. De Gross (9th Cir. 1992) 960 F.2d 1433
 - misstatement of evidence by defense counsel in opening argument
People v. Coleman (1992) 5 Cal.App.4th 646
 - tardy request to allow defendant-witness to change clothes before testifying
People v. Froehlig (1991) 1 Cal.App.4th 260

TRIAL CONDUCT

Criticism of the court

Matter of Humphrey (1917) 174 Cal. 290, 295 [163 P. 60]

Cross-complaint

duty to decline to file when totally meritless and frivolous
LA 464 (1991)

Delaying tactics

DeRose v. Heurlin (2002) 100 Cal.App.4th 158 [122 Cal.Rptr.2d 630]

Bryan v. Bank of America (2001) 86 Cal.App.4th 185 [103 Cal.Rptr.2d 148]

In re Marriage of Gumabao (1984) 150 Cal.App.3d 572, 577

Depositions

duty to protect client interest by asserting proper objections and consulting with client where appropriate to fulfill duty of competent representation
LA 497 (1999)

instructions not to answer sanctionable

Stewart v. Colonial Western Agency, Inc. (2001) 87 Cal.App.4th 1006 [105 Cal.Rptr.2d 115]

Destruction of evidence

Penal Code section 135

R.S. Creative Inc. v. Creative Cotton Ltd., et al. (1999) 75 Cal.App.4th 486 [89 Cal.Rptr.2d 353]

Duty to advise court of a violation of a court order by third party

LA 394 (1982)

Duty to disclose adverse case in controlling jurisdiction

Southern Pacific Transportation v. P.U.C. of the State of California (9th Cir. 1983) 716 F.2d 1285, 1291

failure to discuss most pertinent legal authority

Pierotti, et al. v. Torian (2000) 81 Cal.App.4th 17 [96 Cal.Rptr.2d 553]

Duty to inform court that corporate client is suspended

Palm Valley Homeowners Association, Inc. v. Design MTC (2000) 85 Cal.App.4th 553 [102 Cal.Rptr.2d 350]
LA 408 (1982)

Duty to reveal altered evidence

SD 1983-3

Duty to reveal facts

failing to correct a judge's misapprehension of fact

Snyder v. State Bar (1976) 18 Cal.3d 286 [133 Cal.Rptr. 864, 555 P.2d 1104]

Griffis v. S.S. Kresge Company (1984) 150 Cal.App.3d 491 [197 Cal.Rptr. 771]

failure to file briefs on time

In re Young (9th Cir. 1976) 537 F.2d 326

failure to reveal harmful facts

Snyder v. State Bar (1976) 18 Cal.3d 286 [133 Cal.Rptr. 864, 555 P.2d 1104]

-client's prior criminal conviction

CAL 1986-87

negligent, not intentional misrepresentation, is still misrepresentation and attorney must inform court upon such realization

Datig v. Dove Books, Inc. (1999) 73 Cal.App.4th 964 [87 Cal.Rptr.2d 719]

use of false evidence of perjured testimony

Penal Code sections 127, 132-135, 137

when asked directly, that client cannot be located

CAL 1989-111

Ex parte communication with judge

judge engaged in improper ex parte conversations with parties and counsel about matters coming before him as a judge

In the Matter of Jenkins (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 157

trial court had no authority to impose sanctions for attorney's ex parte request to set date for status conference

Blum v. Republic Bank (1999) 73 Cal.App.4th 245 [86 Cal.Rptr.2d 226]

CAL 1984-78, CAL 1984-82

Ex parte tampering with selection of potential jurors

Noland v. State Bar (1965) 63 Cal.2d 298, 302 [46 Cal.Rptr. 305, 405 P.2d 129]

Extensions

answer

-attorney cannot assume extension of time to answer without communication from opposing counsel

Lott v. Franklin (1988) 206 Cal.App.3d 521

Failure to file jury instructions with Joint Issues Conference Statement

Cooks v. Superior Court (1990) 224 Cal.App.3d 723

Failure to monitor progress of client's case results in denial of motion for a preferential trial date

Shaffer v. Weber (1991) 233 Cal.App.3d 944

False statements of fact or law

Fink v. Gomez (9th Cir. 2001) 239 F.3d 989

attorney disciplined for false averments of fact by clients

Barton v. State Bar (1931) 213 Cal. 186, 188 [2 P.2d 149]

attorney gives false testimony while under oath in court

Green v. State Bar (1931) 213 Cal. 403, 405

citing case known not to be controlling

Shaeffer v. State Bar (1945) 26 Cal.2d 739, 747 [160 P.2d 825]

concealment of request for continuance not distinguishable from false statement of fact

Grove v. State Bar (1965) 63 Cal.2d 312, 315 [46 Cal.Rptr. 513, 405 P.2d 553]

court responsible for ascertaining attorney's role in preparation and presentation of sham evidence

Paul Oil Company, Inc. v. Federated Mutual Insurance (1998) 154 F.3d 1049

deputy district attorney hints that defendant has prior criminal record, where such remarks have no basis in fact

People v. Bolton (1979) 23 Cal.3d 208, 213 [152 Cal.Rptr. 141, 589 P.2d 396]

false accounting

CAL 1988-96

false declarations made to court

Young v. Rosenthal (1989) 212 Cal.App.3d 96 [260 Cal.Rptr. 369]

In the Matter of Chestnut (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 166

In the Matter of Johnson (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 179

In the Matter of Myrdall (Review Dept. 1995) 3 Cal. State Bar Ct. Rptr. 363

false representations made to the State Bar

Lebbos v. State Bar (1991) 53 Cal.3d 37

Olguin v. State Bar (1980) 28 Cal.3d 195, 200 [167 Cal.Rptr. 876, 616 P.2d 858]

In the Matter of Dahlz (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 269

false statement of fact made to jury

City of Los Angeles v. Decker (1977) 18 Cal.3d 860, 871 [135 Cal.Rptr. 647, 558 P.2d 545]

false statement to opposing counsel

In the Matter of Dahlz (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 269

in pleading

-verified by client

LA 33 (1927)

presentation of known false fact presumes intent to deceive

Pickering v. State Bar (1944) 24 Cal.2d 141, 144 [148 P. 2d 1]

Vaughn v. Municipal Court (1967) 252 Cal.App.2d 348, 358 [60 Cal.Rptr. 575]

presentation of known false fact which tends to mislead sufficiently

Vickers v. State Bar (1948) 32 Cal.2d 247, 253 [196 P.2d 10]

presenting altered document to court

Utz v. State Bar (1942) 21 Cal.2d 100, 104 [130 P.2d 377]

TRIAL CONDUCT

False testimony

attorney induces

-no civil liability

Rens v. Woods (1987) 193 Cal.App.3d 1134

by client

SD 1983-8

-attorney knowingly allows

Business and Professions Code section 6068(d)

Penal Code section 127

Rule 7-101, Rules of Professional Conduct (former rule)

In re Branch (1968) 70 Cal.3d 200, 210

People v. Pike (1962) 58 Cal.2d, 70, 97

People v. Lucas (1969) 1 Cal.App.3d 637, 643

offer by attorney

-no duty to

Business and Professions Code section 6068(d)

Falsely maligning judge

abuse of judge of the trial court in brief filed in appellate court treated as contempt of appellate court

Sears v. Starbird (1888) 75 Cal. 91 [16 P. 531]

affidavit accuses superior court judges of criminal conspiracy

Bar Association v. Philbrook (1917) 35 Cal.App. 460 [170 P. 440]

appeal accuses trial court judge of conspiracy

In re Scott (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 446

appellate court judges

Ramirez v. State Bar (1980) 28 Cal.3d 402 [169 Cal.Rptr. 206]

assailing state Supreme Court justice in filed brief

In re Philbrook (1895) 105 Cal. 471, 477 [38 P. 511, 38 P. 884]

attacking judge by publicly making false and inflammatory statements

Standing Committee on Discipline of the U.S. District Court v. Yagman (9th Cir. 1995) 55 F.3d 1430

attacking judge in letter to court dictated by attorney, signed by client

Ex parte Ewell (1925) 71 Cal.App. 744, 748 [236 P. 205]

circular attack of official and personal acts of judge

In re Graves (1923) 64 Cal.App. 176, 181 [221 P. 411]

closing brief contains disrespectful language

Baldwin v. Daniels (1957) 154 Cal.App.2d 153, 155 [315 P.2d 889]

disrespectful remarks concerning judge

Hogan v. State Bar (1951) 36 Cal.2d 807, 810 [228 P.2d 554]

-trial court properly admonished defense counsel in front of jury for numerous instances of misconduct amounting to unprofessional conduct throughout course of trial

People v. Chong (1999) 76 Cal.App.4th 232 [90 Cal.Rptr.2d 198]

making false statements to disqualify a judge

Lebbos v. State Bar (1991) 53 Cal.3d 37

Fine v. Superior Court (2002) 97 Cal.App.4th 651 [119 Cal.Rptr.2d 376]

Filing false affidavit

Husted v. Workers' Compensation Appeals Board (1981) 30 Cal.3d 329, 348 [178 Cal.Rptr. 801, 636 P.2d 1139]

Light v. State Bar (1939) 14 Cal.2d 328 [94 P.2d 35]

In re Wharton (1896) 114 Cal. 367 [46 P. 172]

In re Knott (1887) 71 Cal. 584 [12 P. 780]

in support of application for admission to bar

Spearz v. State Bar (1930) 211 Cal. 183, 187 [294 P. 697]

Following conclusion of case, the issue of whether law firm should have been disqualified is moot

Nakano v. United States (9th Cir. 1983) 698 F.2d 1059, 1060

Free speech right of the attorney at issue

Standing Committee on Discipline of the U.S. District Court v. Yagman (9th Cir. 1995) 55 F.3d 1430

Gentile v. State Bar of Nevada (1991) 498 U.S. 1023 [111 S.Ct. 669; 111 S.Ct. 2720]

Zal v. Steppe (9th Cir. 1991) 968 F.2d 924

Frivolous appeal

sanctions

-against attorney

DeRose v. Heurlyn (2002) 100 Cal.App.4th 158 [122 Cal.Rptr.2d 630]

Pierotti, et al. v. Torian (2000) 81 Cal.App.4th 17 [96 Cal.Rptr.2d 553]

Bank of California v. Varakin (1990) 216 Cal.App.3d 1630

Bach v. County of Butte (1989) 215 Cal.App.3d 294

Young v. Rosenthal (1989) 212 Cal.App.3d 96 [260 Cal.Rptr. 369]

Kapelus v. Newport Equity Funds, Inc. (1983) 147 Cal.App.3d 1, 9 [194 Cal.Rptr. 893]

In re Scott (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 446

--denied where plaintiff had probable cause to sue defendant

Morrison v. Rudolph (2002) 103 Cal.App.4th 506 [126 Cal.Rptr.2d 747]

--notification of State Bar

Bank of California v. Varakin (1990) 216 Cal.App.3d 1630

-against attorney and client for delay

Harris v. Sandro (2002) 96 Cal.App.4th 1310 [117 Cal.Rptr.2d 910]

-for delay – defendant

Hersch v. Citizens (1983) 146 Cal.App.3d 1002, 1012 [194 Cal.Rptr. 628]

-for frivolous Marvin appeal

Kurokawa v. Blum (1988) 199 Cal.App.3d 976 [245 Cal.Rptr. 463]

-motion devoid of merit, bad faith

Karwasky v. Zachay (1983) 146 Cal.App.3d 679 [194 Cal.Rptr. 292]

Frivolous matter

attorney appearing for client is not litigant for purposes of being sanctioned as vexatious litigant

Weissman v. Quail Lodge Inc. (9th Cir. 1999) 179 F.3d 1194

lawyer declared vexatious litigant based on multiple filings of frivolous matters

In re Shieh (1993) 17 Cal.App.4th 1154 [21 Cal.Rptr.2d 886]

Frivolous motion

for purposes of delay, discipline imposed

Bernstein v. State Bar (1990) 50 Cal.3d 221

sanctions

In re Disciplinary Action Mooney (9th Cir. 1988) 841 F.2d 1003

Frivolous pleading

sanctions

580 Folsom Associates v. Prometheus Development Co. (1990) 223 Cal.App.3d 1 [272 Cal.Rptr. 227]

Immunity

fabricating evidence, filing false crime report, making comments to the media, and investigating crime against attorney may not be protected by absolute immunity

Milstein v. Cooley (9th Cir. 2001) 257 F.3d 1004

may not shield from civil rights claim where district attorney misstates facts in affidavit to secure arrest warrant

Morley v. Walker (1999) 175 F.3d 756

Improper remarks about opposing party during trial corrected by sustained objections and court's admonishment

West v. Johnson & Johnson Products, Inc. (1985) 174 Cal.App.3d 831 [220 Cal.Rptr. 437]

-trial court properly admonished defense counsel in front of jury for numerous instances of misconduct amounting to unprofessional conduct throughout course of trial

People v. Chong (1999) 76 Cal.App.4th 232 [90 Cal.Rptr.2d 198]

TRIAL CONDUCT

- Incompetent representation
 - basis for reversal of judgment
 - must be reported by clerk to State Bar
 - Business and Professions Code section 6086.7
- Insinuation
 - Curcio v. Svanevik (1984) 155 Cal.App.3d 955 [202 Cal.Rptr. 499]
- Juror lists
 - attempted interference with
 - Noland v. State Bar (1965) 63 Cal.2d 298, 302 [46 Cal.Rptr. 305, 405 P.2d 129]
- Local court rules
 - dismissal of action appropriate sanction for violations of fast track rules
 - Intel Corp. v. USAIR, Inc. (1991) 228 Cal.App.3d 1559 [279 Cal.Rptr. 569]
- Media and press statements
 - Rule 5-120, Rules of Professional Conduct (operative October 1, 1995)
 - may be regulated under "clear and present danger" standard
 - Standing Committee on Discipline of the U.S. District Court v. Yagman (9th Cir. 1995) 55 F.3d 1430
 - Gentile v. State Bar of Nevada (1991) 498 U.S. 1023 [111 S.Ct. 669; 111 S.Ct. 2720]
- Misconduct by counsel
 - People v. Burnett (1993) 12 Cal.App.4th 469 [15 Cal.Rptr.2d 638]
 - basis for reversal of judgment
 - must be reported by clerk to State Bar
 - Business and Professions Code section 6086.7
 - no misconduct found in lawyer's aggressive solicitation of improper opinion testimony
 - Dominguez v. Pantalone (1989) 212 Cal.App.3d 201 [260 Cal.Rptr. 431]
 - prosecutor effectively calling defense counsel a liar
 - United States v. Rodriguez (9th Cir. 1998) 159 F.3d 439
- Misleading judge or other party
 - In re Disciplinary Action Curl (9th Cir. 1986) 803 F.2d 1004
 - Maltaman v. State Bar (1987) 43 Cal.3d 924
 - In the Matter of Moriarty (Review Dept. 1999) 4 Cal. State Bar Ct. Rptr. 9
 - In the Matter of Farrell (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 490
 - In the Matter of Conroy (Review Dept. 1990) 1 Cal. State Bar Ct. Rptr. 86
 - altering and filing stipulations
 - Lebbos v. State Bar (1991) 53 Cal.3d 37
 - attorney knowingly presents false statements which tend to deceive/mislead the court
 - Davis v. State Bar (1983) 37 Cal.3d 231
 - In the Matter of Chestnut (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 166
 - In the Matter of Johnson (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 179
 - co-counsel for criminal defendant conspire to procure improper dismissal of case by falsely representing whereabouts of client
 - In re Richardson (1930) 209 Cal. 492, 499
 - concealment of material fact is as misleading as an overtly false statement
 - Griffis v. S.S. Kresge Company (1984) 150 Cal.App.3d 491 [197 Cal.Rptr. 771]
 - Di Sabatino v. State Bar (1980) 27 Cal.3d 159
 - In the Matter of Chestnut (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 166
 - In the Matter of Harney (Review Dept. 1995) 3 Cal. State Bar Ct. Rptr. 266
 - In the Matter of Jeffers (Review Dept. 1994) 3 Cal. State Bar Ct. Rptr. 211
 - OR 95-001
 - concealment of suspended corporate client's status
 - Palm Valley Homeowners Association, Inc. v. Design MTC (2000) 85 Cal.App.4th 553 [102 Cal.Rptr.2d 350]
- deceit concerning disbursements of funds held for benefit of both spouses in marital dissolution
 - In the Matter of Hertz (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 456
- distortion of record by deletion of critical language in quoting from record
 - Amstar Corp. v. Envirotech Corp. (9th Cir. 1984) 730 F.2d 1476
- false statement of law
 - Ainsworth v. State Bar (1988) 46 Cal.3d 1218
- knowingly presenting a false statement intending to mislead the court
 - In the Matter of Chestnut (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 166
 - In the Matter of Johnson (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 179
 - In the Matter of Brimberry (Review Dept. 1995) 3 Cal. State Bar Ct. Rptr. 390
 - In the Matter of Farrell (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 490
 - *In the Matter of Temkin (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 321
- litigation privilege
 - dismissal of defamation action against law firm justified
 - Dove Audio Inc. v. Rosenfeld, Meyer and Susman (1996) 47 Cal.App.4th 777 [54 Cal.Rptr.2d 830]
 - judicial or litigation privilege as bar to tort actions based on misrepresentations in context of proceedings
 - Silberg v. Anderson (1990) 50 Cal.3d 205
 - Home Insurance Co. v. Zurich Insurance Co. (2002) 96 Cal.App.4th 17 [116 Cal.Rptr.2d 583]
- misleading judge that attorney was not "advised" to get his client to mediation and denial of receipt of written order
 - Bach v. State Bar (1987) 43 Cal.3d 848, 855-856 [239 Cal.Rptr. 302]
- misleading judge through failure to disclose, filing false documents
 - Eschwig v. State Bar (1969) 1 Cal.3d 8, 17 [81 Cal.Rptr. 352, 459 P.2d 904]
 - In the Matter of Chestnut (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 166
- negligent, not intentional misrepresentation, is still misrepresentation and attorney must inform court upon such realization
 - Datig v. Dove Books, Inc. (1999) 73 Cal.App.4th 964 [87 Cal.Rptr.2d 719]
- pre-signed verification forms
 - Drociak v. State Bar (1991) 52 Cal.3d 1085
- prosecutor misleads defense counsel by altering evidence
 - Price v. State Bar (1982) 30 Cal.3d 537, 542 [179 Cal.Rptr. 305, 405 P.2d 129]
- regarding suspended status of corporate client
 - Palm Valley Homeowners Association, Inc. v. Design MTC (2000) 85 Cal.App.4th 553 [102 Cal.Rptr.2d 350] LA 408 (1982)
- Misleading pleadings
 - attorney acting as guardian presents known misleading account to probate court
 - Clark v. State Bar (1952) 39 Cal.2d 161, 174 [246 P.2d 1]
 - false averments of fact by attorney in petition for adoption
 - Bruns v. State Bar (1931) 213 Cal. 151, 155
 - filing dishonest and inaccurate pleadings denounced even where no direct evidence of malice, intent to deceive, or hope of personal gain
 - Giovanazzi v. State Bar (1980) 28 Cal.3d 465, 473 [169 Cal.Rptr. 581, 619 P.2d 1005]
 - making false allegations in petition to probate court
 - Paine v. State Bar (1939) 14 Cal.2d 150 [93 P.2d 103]
 - misrepresentation of record on appeal -sanctions imposed
 - In re Disciplinary Action Boucher (9th Cir. 1988) 850 F.2d 597

TRIAL CONDUCT

- no difference whether judicial officer misled by false statement, misleading silence, or combination of both; allowing client to sign known false affidavit
In re Lincoln (1929) 102 Cal.App. 733, 741
- Misrepresentation by counsel, willful
basis for reversal of judgment
-must be reported by clerk to State Bar
Business and Professions Code section 6086.7
- Misrepresentations made to opposing counsel
LA 482 (1995)
- Monetary sanctions not warranted where attorney's conduct of returning late from lunch and failure to await court preparation of a verdict form did not clearly interfere with administration of justice
Wehrli v. Pagliotti (9th Cir. 1991) 947 F.2d 1424
- Non-disclosure of material facts
concealing assets from judgment creditor
In the Matter of Jeffers (Review Dept. 1994) 3 Cal. State Bar Ct. Rptr. 211
Lebbos v. State Bar (1991) 53 Cal.3d 37
concealing known material letter from court
Sullins v. State Bar (1975) 15 Cal.3d 609, 617 [125 Cal.Rptr. 471, 542 P.2d 631]
failure to disclose material facts to bail commissioner
Di Sabatino v. State Bar (1980) 27 Cal.3d 159, 164 [162 Cal.Rptr. 458, 606 P.2d 765]
failure to disclose to court attorney's purchase of principal estate asset while representing executrix
Rule 5-103, Rules of Professional Conduct
Eschwig v. State Bar (1969) 1 Cal.3d 8, 15 [81 Cal.Rptr. 352, 459 P.2d 904]
failure to disclose to judge earlier order affecting same parties; knowing failure to disclose to judge intended use of granted ex parte order
Snyder v. State Bar (1976) 18 Cal.3d 286, 291 [133 Cal.Rptr. 864, 555 P.2d 1104]
failure to disclose to judge known whereabouts of absent opposing counsel
OR 95-001
misleading the court
In the Matter of Chestnut (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 166
negligent, not intentional misrepresentation, is still misrepresentation and attorney must inform court upon such realization
Datig v. Dove Books, Inc. (1999) 73 Cal.App.4th 964 [87 Cal.Rptr.2d 719]
suspended corporate client's status
Palm Valley Homeowners Association, Inc. v. Design MTC (2000) 85 Cal.App.4th 553 [102 Cal.Rptr.2d 350]
- Obstruction of justice
In re Richardson (1930) 209 Cal. 492, 499 [288 P. 669]
In the Matter of Jenkins (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 157
- Offensive descriptions of opposing party's counsel
United States v. Wunsch (9th Cir. 1996) 84 F.3d 1110
Snyder v. State Bar (1976) 18 Cal.3d 286, 292 [133 Cal.Rptr. 864, 555 P.2d 1104]
People v. Chong (1999) 76 Cal.App.4th 232 [90 Cal.Rptr.2d 198]
Hawk v. Superior Court (1974) 42 Cal.App.3d 108, 129 [116 Cal.Rptr. 713]
- Offensive personality
United States v. Rodrigues (9th Cir. 1998) 159 F.3d 439
United States v. Wunsch (9th Cir. 1996) 84 F.3d 1110
Lebbos v. State Bar (1991) 53 Cal.3d 37
Van Sloten v. State Bar (1989) 48 Cal.3d 921, 925
Weber v. State Bar (1988) 47 Cal.3d 492, 500
Dixon v. State Bar (1982) 32 Cal.3d 728, 735
Ramirez v. State Bar (1980) 28 Cal.3d 402, 404, 406
Snyder v. State Bar (1976) 18 Cal.3d 286, 292
People v. Chong (1999) 76 Cal.App.4th 232 [90 Cal.Rptr.2d 198]
- Hawk v. Superior Court (1974) 42 Cal.App.3d 108, 129
In the Matter of Varakin (Review Dept. 1994) 3 Cal. State Bar Ct. Rptr. 179
unconstitutional vagueness
United States v. Wunsch (9th Cir. 1996) 84 F.3d 1110
In the Matter of Anderson (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 775
Omission of material statements of fact or law
Scofield v. State Bar (1965) 62 Cal.2d 624, 628 [43 Cal.Rptr. 825, 401 P.2d 217]
In the Matter of Chestnut (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 166
Peremptory challenges to exclude all Asians from the jury as possible trial court error
People v. Lopez (1991) 3 Cal.App.4th Supp. 11 [5 Cal.Rptr.2d 775]
- Perjury
by client
-criminal proceeding
Nix v. Whiteside (1986) 475 U.S. 157 [106 S.Ct. 988]
Lowery v. Caldwell (9th Cir. 1978) 575 F.2d 727
People v. Guzman (1988) 45 Cal.3d 915 [248 Cal.Rptr. 467]
People v. Johnson (1998) 62 Cal.App.4th 608 [72 Cal.Rptr.2d 805]
People v. Gadson (1993) 19 Cal.App.4th 1700 [24 Cal.Rptr.2d 219]
-disclosure of
--by attorney
People v. Guzman (1988) 45 Cal.3d 915 [248 Cal.Rptr. 467]
People v. Johnson (1998) 62 Cal.App.4th 608 [72 Cal.Rptr.2d 805]
People v. Brown (1988) 203 Cal.App.3d 1335
CAL 1983-74
LA 386 (1981), LA 305 (1968)
-no civil liability for attorney for inducing false testimony by client
Rens v. Woods (1987) 193 Cal.App.3d 1134
narrative form of testimony is best choice when attorney fears client will commit perjury
People v. Guzman (1998) 45 Cal.3d 915 [248 Cal.Rptr. 467]
People v. Johnson (1998) 62 Cal.App.4th 608 [72 Cal.Rptr.2d 805]
of former client in on-going case
LA 386 (1977)
withdrawal
-by attorney
People v. Johnson (1998) 62 Cal.App.4th 608 [72 Cal.Rptr.2d 805]
People v. Brown (1988) 203 Cal.App.3d 1335
CAL 1983-74, SD 1983-8, LA 305 (1968)
- Prejudicial conduct of counsel
reversal of verdict on appeal
Simmons v. Southern Pac. Transp. Co. (1976) 62 Cal.App.3d 341 [133 Cal.Rptr. 42]
Prejudicial statements during closing argument [See Closing argument]
Privileged acts of attorney
attorney's acts found not privileged under Civil Code section 47(2)
Durant Software v. Herman (1989) 209 Cal.App.3d 229 [257 Cal.Rptr. 200]
attorney's acts privileged under Civil Code section 47(2)
Silberg v. Anderson (1990) 50 Cal.3d 205 [786 P.2d 365]
Home Ins. Co. v. Zurich Ins. Co. (2002) 96 Cal.App.4th 17 [116 Cal.Rptr.2d 583]
"interest of justice" test
Silberg v. Anderson (1990) 50 Cal.3d 205 [786 P.2d 365]

TRIAL CONDUCT

Pro hac vice attorney

censure for failure to follow local court rules

United States v. Ries (9th Cir. 1996) 100 F.3d 1469

United States v. Summet (9th Cir. 1988) 862 F.2d 784

Rule 983, California Rules of Court

Paciulan v. George (9th Cir. 2000) 229 F.3d 1226

Public defender

assignment to act as advisory counsel proper even though attorney is officially relieved of the representation

Ligda v. Superior Court (1970) 5 Cal.App.3d 811 [85 Cal.Rptr. 744]

refusal to obey court order to proceed with care excused when counsel is unprepared

Hughes v. Superior Court (1980) 106 Cal.App.3d 1 [164 Cal.Rptr. 721]

Punctuality for court appearances

Clark v. Los Angeles Superior Court (1992) 6 Cal.App.4th 58 [7 Cal.Rptr.2d 772]

In re Allis (9th Cir. 1976) 531 F.2d 1391

Removal of defense counsel warranted when counsel's repeated delays are the result of a medical condition

Maniscalco v. Superior Court (1991) 234 Cal.App.3d 846

Repeating questions after objection sustained

Dominguez v. Pantalone (1989) 212 Cal.App.3d 201 [260 Cal.Rptr. 431]

Hawk v. Superior Court (1974) 42 Cal.App.3d 108, 126 [116 Cal.Rptr. 713]

Representation by incompetent counsel not enough for reversal
Kim v. Orellana (1983) 145 Cal.App.3d 1024 [193 Cal.Rptr. 827]

Respect for judiciary

published letter written about opinion of a judge

Lloyd v. Superior Court (1982) 133 Cal.App.3d 896 [184 Cal.Rptr. 467]

Reversal of judgment in judicial proceeding

altering evidence in criminal trial

Price v. State Bar (1982) 30 Cal.3d 537, 549 [179 Cal.Rptr. 914, 638 P.2d 1311]

based upon counsel's

-incompetent representation

Business and Professions Code section 6086.7

-misconduct

Business and Professions Code section 6086.7

-willful misrepresentation

Business and Professions Code section 6086.7

--report to State Bar

Business and Professions Code section 6086.7

Rule 7-105, Rules of Professional Conduct
(operative until May 26, 1989)

Rule 5-200, Rules of Professional Conduct
(operative as of May 27, 1989)

concealment of material facts just as misleading as explicit false statements

Di Sabatino v. State Bar (1980) 27 Cal.3d 159, 162 [162 Cal.Rptr. 458, 606 P.2d 765]

Griffis v. S.S. Kresge Company (1984) 150 Cal.App.3d 491 [197 Cal.Rptr. 771]

*Matter of Harney (Review Dept. 1995) 3 Cal. State Bar Ct. Rptr. 266

In the Matter of Jeffers (Review Dept. 1994) 3 Cal. State Bar Ct. Rptr. 211

denying known material fact in argument to jury

City of Los Angeles v. Decker (1977) 18 Cal.3d 860, 871 [135 Cal.Rptr. 647]

false pleading

Giovanazzi v. State Bar (1980) 28 Cal.3d 465, 469 [169 Cal.Rptr. 581, 619 P.2d 1005]

false statement of law

Ainsworth v. State Bar (1988) 46 Cal.3d 1218

presenting fabricated documents, making false representation in response to State Bar investigation

Olguin v. State Bar (1980) 28 Cal.3d 195, 199 [167 Cal.Rptr. 876, 616 P.2d 858]

prosecutorial misconduct to hint that defendant has prior criminal record where such remarks have no basis in fact

People v. Bolton (1979) 23 Cal.3d 208, 213 [152 Cal.Rptr. 141, 589 P.2d 396]

regarding suspended status of corporate client

LA 408 (1982)

Sanctions for trial misconduct

concealment of suspended corporate client's status

Palm Valley Homeowners Association, Inc. v. Design MTC (2000) 85 Cal.App.4th 553 [102 Cal.Rptr.2d 350]

Federal Rule 11 sanctions levied only on lawyers, not law firms

Pavelic & LeFlore v. Marvel Entertainment Group (1989) 493 U.S. 120 [110 S.Ct. 456]

Truesdell v. Southern California Permanente Medical Group (9th Cir. 2002) 293 F.3d 1146

frivolous appeal

DeRose v. Heurlin (2002) 100 Cal.App.4th 158 [122 Cal.Rptr.2d 630]

Dana Commercial Credit v. Ferns & Ferns (2001) 90 Cal.App.4th 142 [108 Cal.Rptr.2d 278]

Young v. Rosenthal (1989) 212 Cal.App.3d 96 [260 Cal.Rptr. 369]

People v. Dependable Insurance Co. (1988) 204 Cal.App.3d 871

Bach v. County of Butte (1985) 172 Cal.App.3d 848 [218 Cal.Rptr. 613]

Conservatorship of Gollock (1982) 130 Cal.App.3d 271 [181 Cal.Rptr. 547]

frivolous pleadings

580 Folsom Associates v. Prometheus Development Co. (1990) 223 Cal.App.3d 1 [272 Cal.Rptr. 227]

-in favor of dismissed party for bad faith tactics of plaintiff's attorney

Frank Annino & Sons v. McArthur Restaurants (1989) 215 Cal.App.3d 353

limitations

-juvenile proceeding

In re Sean R. (1989) 214 Cal.App.3d 662

multiplying proceedings unreasonably and vexatiously under 28 U.S.C. section 1927

Gomez v. Vernon (9th Cir. Idaho 2001) 255 F.3d 1118 [50 Fed. R. Serv.3d (Callaghan) 436]

In re Deville (9th Cir. BAP 2002) 280 B.R. 483

pro hac vice attorney

-censure for failure to follow local court rules

United States v. Summet (9th Cir. 1988) 862 F.2d 784

reckless misstatements of law and fact, combined with an improper purpose

Fink v. Gomez (9th Cir. 2001) 239 F.3d 989

second petition for removal frivolous when its basis has been previously rejected

Peabody v. Maud Van Cortland Hill Schroll Trust (9th Cir. 1989) 892 F.2d 772

tardiness

United States v. Stoneberger (9th Cir. 1986) 805 F.2d 1391

Tkaczyk v. City of Los Angeles (1988) 204 Cal.App.3d 349 [251 Cal.Rptr. 75]

violation of local court rule

-attorney not subject to sanctions under local rules for failing to meet and confer with opposing counsel before moving for new trial

Pacific Trends Lamp & Lighting Products, Inc. v. J. White Inc. (1998) 65 Cal.App.4th 1131 [76 Cal.Rptr. 918]

-cannot be imposed for mere negligent violation

Zambrano v. City of Tustin (9th Cir. 1989) 885 F.2d 1473

-cannot be imposed unless sanctioning court first gives attorney opportunity to be heard

Brekhus & Williams v. Parker-Rhodes (1988) 198 Cal.App.3d 788 [244 Cal.Rptr. 48]

TRIAL PUBLICITY

Signing declarations under penalty of perjury on behalf of clients and witnesses may be improper and a conflict of interest
In re Marriage of Reese and Guy (1999) 73 Cal.App.4th 1214 [87 Cal.Rptr.2d 339]

Solicitation of perjured testimony
In re Allen (1959) 52 Cal.2d 762, 768 [344 P.2d 609]

Special appearances
specially appearing attorney owes a duty of care to the litigant
Streit v. Covington & Crowe (2000) 82 Cal.App.4th 441 [82 Cal.Rptr.2d 193]

Statement
use of one that may have been improperly obtained
LA 376 (1978)

Subornation of perjury
attorney instructs client to commit perjury
Paonessa v. State Bar (1954) 43 Cal.2d 222, 226
attorney may not knowingly allow witness to testify falsely, whether he or she is criminal defendant or otherwise
People v. Pike (1962) 58 Cal.2d 70, 97 [22 Cal.Rptr. 664]
criminal defendant insists on testifying perjurally, appropriate and necessary for defense counsel to present request to withdraw
People v. Brown (1988) 203 Cal.App.3d 1335
knowingly countenance the commission of perjury
In re Jones (1971) 5 Cal.3d 390, 400 [96 Cal.Rptr. 448]
lack of sufficient evidence to prove attorney advised client to commit perjury
In re Petersen (1929) 208 Cal. 42, 52 [280 P. 124]
no duty to offer on client's behalf testimony which is untrue (in criminal proceeding)
In re Branch (1969) 70 Cal.2d 200, 212 [74 Cal.Rptr. 233]
penalty
In re Jones (1929) 208 Cal. 240, 242-243 [280 P. 964]
presentation of known false claim to insurance company by attorney
People v. Benson (1962) 206 Cal.App.2d 519, 530 [23 Cal.Rptr. 908]
procure and countenance the commission of perjury
In re Allen (1959) 52 Cal.2d 762, 767 [344 P.2d 609]
public defender questions veracity of criminal defendant's witnesses
In re Atchley (1957) 48 Cal.2d 408, 418 [310 P.2d 15]
requires proof of corrupt agreement between attorney and witness
In the Matter of Hertz (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 456
rule prohibiting ex parte communications does not bar discussions initiated by employee of defendant corporation with government attorney for the purpose of disclosing that corporate officers are attempting to suborn perjury and obstruct justice
United States v. Talao (9th Cir. 2000) 222 F.3d 1133

Suppression of evidence
Penal Code section 135

Tape recorder, use during trial
People v. Ashley (1990) 220 Cal.App.3d 919 [269 Cal.Rptr. 769]

Two attorneys may question a deponent when deponent has agreed
Rockwell International Inc. v. Pos-A-Traction Industries (1983) 712 F.2d 1324, 1325

Vexatious litigant
attorney appearing for client is not litigant
Weissman v. Quail Lodge Inc. (9th Cir. 1999) 179 F.3d 1194

Vicarious disqualification of a firm does not automatically follow the personal disqualification of the tainted attorney, a former settlement judge
County of Los Angeles v. United States District Court (Forsyth) (9th Cir. 2000) 223 F.3d 990

Violation of lawful court order
money sanctions
-not applicable to advocacy of counsel
Code of Civil Procedure section 177.5

Voir dire
defendant in a criminal case may not engage in purposeful race discrimination in the exercise of peremptory challenges
Georgia v. McCollum (1992) 505 U.S. 42 [112 S.Ct. 2348]
denial of defense request to voir dire on racial bias not an abuse of discretion peremptory challenge based on gender violated Equal Protection Clause
United States v. De Gross (9th Cir. 1992) 960 F.2d 1433
People v. Chaney (1991) 234 Cal.App.3d 853
proposition 115 restrictions on jury voir dire by counsel not in violation of U.S. Constitution
People v. Adam (1991) 235 Cal.App.3d 916
prosecutor's peremptory challenge of sole black juror
People v. Christopher (1991) 1 Cal.App.4th 666

Withdraw when client commits perjury
LA(l) 1974-7
Withdraw when client intends to commit perjury
CAL 1983-74, LA 362 (1976)

Yield to rulings of court
Business and Professions Code section 6103
Dominguez v. Pantalone (1989) 212 Cal.App.3d 201 [260 Cal.Rptr. 431]
whether right or wrong
Hawk v. Superior Court (1974) 42 Cal.App.3d 108, 126 [116 Cal.Rptr. 713]

TRIAL PUBLICITY

Rule 5-120, Rules of Professional Conduct (operative October 1, 1995).

TRUST ACCOUNT [See Client's trust account.]

TRUSTEE [See Assignment. Bankruptcy. Estate, trustee.]

Action brought by beneficiary against attorney for trustee
Wolf v. Mitchell, Silberberg & Knupp, et al. (1999) 76 Cal.App.4th 1030 [90 Cal.Rptr.2d 792]

Attorney as trustee, client as beneficiary
Schneider v. State Bar (1987) 43 Cal.3d 784
Probate Code sections 15687 and 16004(c)
In the Matter of Hultman (Review Dept. 1995) 3 Cal. State Bar Ct. Rptr. 297
duty to third party
In re Marriage of Wagoner (1986) 176 Cal.App.3d 936 [222 Cal.Rptr. 479]

Attorney-client privilege
Wells Fargo Bank v. Superior Court (Boltwood) (2000) 22 Cal.4th 201 [901 Cal.Rptr.2d 716]
Moeller v. Superior Court (1997) 16 Cal.4th 1124 [69 Cal.Rptr.2d 317]

Attorney-client relationship does not extend to beneficiaries
Wells Fargo Bank v. Superior Court (Boltwood) (2000) 22 Cal.4th 201 [901 Cal.Rptr.2d 716]
Fletcher v. Superior Court (1996) 44 Cal.App.4th 773 [52 Cal.Rptr.2d 65]
Goldberg v. Frye (1990) 217 Cal.App.3d 1258, 1269
Lasky, Haas, Cohler & Munter v. Superior Court (1985) 172 Cal.App.3d 264, 282

Breach of trustee fiduciary duty
Donovan v. Mazzola (9th Cir. 1983) 716 F.2d 1226, 1234
Wolf v. Mitchell, Silberberg & Knupp, et al. (1999) 76 Cal.App.4th 1030 [90 Cal.Rptr.2d 792]
In re McCarthy (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 364

Cannot assign legal malpractice claim by trustee of bankruptcy estate
Curtis v. Kellogg & Andelson (1999) 73 Cal.App.4th 492 [86 Cal.Rptr.2d 536]
Baum v. Duckor, Spradling & Metzger (1999) 72 Cal.App.4th 54 [84 Cal.Rptr.2d 703]
bankruptcy estate representative pursuing claim for the estate is not an assignee
Office of Statewide Health Planning and Development v. Musick, Peeler & Garrett (1999) 76 Cal.App.4th 830 [90 Cal.Rptr.2d 705]

Employs himself as counsel for trustee
LA(l) 1966-2

UNAUTHORIZED PRACTICE OF LAW

Escrow holder

In re Marriage of Wagoner (1986) 176 Cal.App.3d 936 [222 Cal.Rptr. 479]

Legatee for testamentary trust

LA 219 (1954)

Non-attorney trustee who represents trust in action to protect trust property engages in unauthorized practice of law

Ziegler v. Nickel (1998) 64 Cal.App.4th 545 [75 Cal.Rptr.2d 312]

Receiver entitled to attorney-client privilege

Shannon v. Superior Court (1990) 217 Cal.App.3d 986 [266 Cal.Rptr. 242]

Standing to sue corporate attorneys of "sham" corporation for malpractice

Loyd v. Paine Webber, Inc. (9th Cir. 2000) 208 F.3d 755

Trustee as client of attorney

Probate Code section 16247

Moeller v. Superior Court (1997) 16 Cal.4th 1124 [69 Cal.Rptr.2d 317]

Wolf v. Mitchell, Silberberg & Knupp, et al. (1999) 76 Cal.App.4th 1030 [90 Cal.Rptr.2d 792]

UNAUTHORIZED PRACTICE OF LAW

Business and Professions Code sections 6125, 6126

Rule 3-101, Rules of Professional Conduct (operative until May 26, 1989)

Rule 1-300, Rules of Professional Conduct (operative as of May 27, 1989)

Advertising as entitled to practice law

contempt of court

Business and Professions Code section 6127

lawyer disbarred or under suspension

Business and Professions Code section 6126

misdemeanor

Business and Professions Code section 6126

non-lawyers

Business and Professions Code section 6127(b)

Aiding and abetting

In re Carlos (C.D. Cal. 1998) 227 B.R. 535 [3 Cal.Bankr.Ct.Rep. 80]

Bluestein v. State Bar (1974) 13 Cal.3d 162, 173 [118 Cal.Rptr. 175, 529 P.2d 599]

Ridley v. State Bar (1972) 6 Cal.3d 551, 558 [99 Cal.Rptr. 873, 493 P.2d 105]

Crawford v. State Bar (1960) 54 Cal.2d 659, 667 [7 Cal.Rptr. 746, 355 P.2d 490]

Griffith v. State Bar (1953) 40 Cal.2d 470, 472

Geibel v. State Bar (1938) 11 Cal.2d 412, 424 [79 P.2d 1073]

Dudney v. State Bar (1937) 8 Cal.2d 555, 562

Smallberg v. State Bar (1931) 212 Cal. 113, 119

Gafcon, Inc. v. Ponsor & Associates (2002) 98 Cal.App.4th 1388 [120 Cal.Rptr.2d 392]

In re Valinoti (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 498

In the Matter of Steele (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 708

advising non-lawyer who performs services in forming corporations for charge

LA 69 (1933)

association with firm rendering advice concerning construction

CAL 1969-18

attorney as employee of lay organization providing services to other attorneys

LA 359 (1976)

-independent contractor for

LA 327 (1972)

by client

LA 402 (1982)

client

LA 436 (1985), LA 402 (1982)

collections

CAL 1982-68

contracts

-advising agent concerning legality of

--being negotiated by agent for fee

LA 80 (1935)

corporation provides paid legal services

-for employees

--directs employees to one attorney

LA 292 (1965)

disbarred lawyer to practice

Crawford v. State Bar (1960) 54 Cal.2d 659 [7 Cal.Rptr. 746, 355 P.2d 490]

LA 402 (1982)

employees of dual practice brokerage/law firm

LA 413 (1983), LA 384 (1980)

employment agency

LA 359 (1976), LA 327 (1972)

financial management company, attorney as shareholder

LA 372 (1978)

foreign attorney

LA 426 (1984)

living trust marketers

In re Mid-American Living Trust Association, Inc., et al. (Missouri 1996) 927 S.W.2d 855

The Florida Bar Re Advisory Opinion-Nonlawyer Preparation of Living Trusts (Fla. 1992) 613 So.2d 426

out-of-state lawyer

-renting office to

--where public might be misled to believe person admitted in California

LA 99 (1936)

partnership with doctor providing legal services

LA 335 (1973)

uncharged violation of rule 1-300(A) considered in aggravation and involved moral turpitude

In the Matter of Bragg (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 615

Arbitration

Linsco/Private Ledger v. Investors Arbitration Services (1996) 50 Cal.App.4th 1633 [58 Cal.Rptr.2d 613]

certification of non-resident, out-of-state attorney representatives

Code of Civil Procedure section 1282.4

Assuming and acting as attorney without authority

contempt of court

Business and Professions Code section 6127(a)

Howard v. Superior Court (1975) 52 Cal.App.3d 722 [125 Cal.Rptr. 255]

People ex rel. Dept. of Public Works v. Malone (1965) 232 Cal.App.2d 531, 536 [42 Cal.Rptr. 888]

Attorneys

Bagg v. Wickizer (1935) 9 Cal.App.2d 753

controlled by consultants

CAL 1984-79

disbarred while

In re McKelvey (1927) 82 Cal.App. 426, 429 [255 P.834]

out-of-state

-arbitration representatives

Code of Civil Procedure section 1282.4

-lawyer renting office to

--where public might be misled to believe person admitted in California

LA 99 (1936)

suspended from practice, while

Porter v. State Bar (1990) 52 Cal.3d 518

In re Naney (1990) 51 Cal.3d 186

Arm v. State Bar (1990) 50 Cal.3d 763 [268 Cal.Rptr. 789, 789 P.2d 922]

Silva-Vidor v. State Bar (1989) 49 Cal.3d 1071

Hitchcock v. State Bar (1989) 48 Cal.3d 690 [257 Cal.Rptr. 696, 771 P.2d 394]

Ainsworth v. State Bar (1988) 46 Cal.3d 1218

Chasteen v. State Bar (1985) 40 Cal.3d 586, 591 [220 Cal.Rptr. 842]

Farnham v. State Bar (1976) 17 Cal.3d 605, 612 [131 Cal.Rptr. 661, 552 P.2d 445]
In re Cadwell (1975) 15 Cal.3d 762 [125 Cal.Rptr. 889]
Ridley v. State Bar (1972) 6 Cal.3d 551, 559 [99 Cal.Rptr. 873, 393 P.2d 105]
Abraham v. State Bar (1941) 17 Cal.2d 625 [111 P.2d 317]
Hill v. State Bar of California (1939) 14 Cal.2d 732, 735
*People v. Barillas (1996) 45 Cal.App.4th 1233 [53 Cal.Rptr.2d 418]
People v. Medler (1986) 177 Cal.App.3d 927 [223 Cal.Rptr. 401]
Gomes v. Roney (1979) 88 Cal.App.3d 274 [151 Cal.Rptr. 756]
In the Matter of Mason (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 639
In the Matter of Acuna (Review Dept. 1996) 3 Cal. State Bar Ct. Rptr. 495
In the Matter of Lynch (Review Dept. 1995) 3 Cal. State Bar Ct. Rptr. 287
In the Matter of Taylor (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 563
In the Matter of Burckhardt (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 343
In the Matter of Trousil (Review Dept. 1990) 1 Cal. State Bar Ct. Rptr. 229

Bankruptcy

11 U.S.C. § 110(c) enacted to remedy widespread fraud and the unauthorized practice of law in the bankruptcy petition preparers industry (BPP)

In re Crawford (9th Cir. 1999) 194 F.3d 954 [3 Cal.Bankr.Ct.Rep. 46]

attorney not licensed in Arizona, but who is admitted to practice before Arizona district court, can receive fee as counsel for Chapter 13 debtor

In re Poole (9th Cir. BAP 2000) 222 F.3d 618

In re Mendez (1999 BAP) 231 B.R. 86

Business and Professions Code section 6105

McGregor v. State Bar (1944) 24 Cal.2d 283, 287

Business and Professions Code section 6125

Z. A. v. San Bruno Park School District (9th Cir. 1999) 165 F.3d 1273

Birbrower, Montalbano, Condon & Frank v. Superior Court (1998) 17 Cal.4th 119 [70 Cal.Rptr.2d 858]

Hitchcock v. State Bar (1989) 48 Cal.3d 690 [257 Cal.Rptr. 696, 771 P.2d 394]

Farnham v. State Bar (1976) 17 Cal.3d 605, 612 [131 Cal.Rptr. 661, 552 P.2d 445]

Bluestein v. State Bar (1974) 13 Cal.3d 162, 173-174 [118 Cal.Rptr. 175, 529 P.2d 599]

Biakanja v. Irving (1958) 49 Cal.2d 647, 651 [320 P.2d 16]

Estate of Condon (1998) 65 Cal.App.4th 1138 [76 Cal.Rptr.2d 922]

In re Gordon J. (1980) 108 Cal.App.3d 907, 914

Woodriff v. McDonald's Restaurants (1977) 75 Cal.App.3d 655, 658 [142 Cal.Rptr. 367]

Howard v. Superior Court (1975) 52 Cal.App.3d 722, 726

Vanderhoof v. Prudential Sav. & Loan Assn. (1975) 46 Cal.App.3d 507, 512 [120 Cal.Rptr. 207]

In re Steven C. (1970) 9 Cal.App.3d 255, 265

People ex rel. Dept. of Public Works v. Malone (1965) 232 Cal.App.2d 531, 537 [42 Cal.Rptr. 888]

People v. Sipper (1943) 61 Cal.App.2d Supp.844, 846 [142 P.2d 960]

76 Cal. Ops. Gen. 208 (9/17/93; opn. no. 93-416)

76 Cal. Ops. Gen. 193 (8/30/93; opn. no. 93-303)

Business and Professions Code section 6126

Z. A. v. San Bruno Park School District (9th Cir. 1999) 165 F.3d 1273

People v. Perez (1979) 24 Cal.3d 133, 142 [155 Cal.Rptr. 176, 594 P.2d 1]

Farnham v. State Bar (1976) 7 Cal.3d 605, 612 [131 Cal.Rptr. 661, 552 P.2d 445]

Gerhard v. Stephens (1968) 68 Cal.2d 864, 917-918 [69 Cal.Rptr. 612, 442 P.2d 692]

Crawford v. State Bar (1960) 54 Cal.2d 659, 666 [7 Cal.Rptr. 746, 355 P.2d 490]

Estate of Condon (1998) 65 Cal.App.4th 1138 [76 Cal.Rptr.2d 922]

People ex rel. Dept. of Public Works v. Malone (1965) 232 Cal.App.2d 531, 536 [42 Cal.Rptr. 888]

SD 1983-12, SD 1983-7

Complaints about

Contact: Unauthorized Practice of Law

Office of Complaint Intake

State Bar of California

1149 South Hill Street

Los Angeles, CA 90015-2299

Telephone: (213) 765-1000

Questions about re: research assistance on activities of law clerks, paralegals, and inactive members.

Contact: Unauthorized Practice of Law

Office of Professional Competence, Planning & Development

180 Howard Street

San Francisco, CA 94105

(415) 538-2150

(800) 238-4427 (within CA)

Contempt of court

Business and Professions Code section 6127

advertising or holding oneself as entitled to practice

Business and Professions Code section 6127(b)

assuming and acting as attorney without authority

Business and Professions Code section 6127(a)

Contract preparation

by non-lawyer

-for compensation

--involving legal knowledge of skill

LA 80 (1935)

Corporations

Merco Const. Eng. v. Municipal Court (1978) 21 Cal. 3d 724, 727, 733 [147 Cal.Rptr. 631, 581 P.2d 636]

People v. Merchants Protective Corp. (1922) 189 Cal. 531, 535

Channel Lumber Co. Inc. v. Simon (2000) 78 Cal.App.4th 1222 [93 Cal.Rptr.2d 482]

Ferruzzo v. Superior Court (1980) 104 Cal.App.3d 501 [163 Cal.Rptr. 573]

Woodriff v. McDonald's Restaurants (1977) 75 Cal.App.3d 655, 657-658 [142 Cal.Rptr. 367]

People v. California Protective Corp. (1926) 76 Cal.App. 354, 360

76 Cal. Ops. Gen. 208 (9/27/93; opn. no. 93-303)

appearing in small claims court

Code of Civil Procedure section 116.540

Caressa Camille Inc. v. Alcohol Beverage Control

Appeals Board (2002) 99 Cal.App.4th 1094 [121 Cal.Rptr.2d 758]

in-house attorney

SD 1975-18

need not be represented by counsel before administrative agencies and their tribunals

Caressa Camille Inc. v. Alcohol Beverage Control

Appeals Board (2002) 99 Cal.App.4th 1094 [121 Cal.Rptr.2d 758]

sole proprietorship on appeal

Code of Civil Procedure section 904.3

to provide financial and other services

LA 372 (1978)

Defined

In re Carlos (C.D. Cal. 1998) 227 B.R. 535 [3 Cal.Bankr.Ct.Rep. 80]

Birbrower, Montalbano, Condon & Frank v. Superior Court (1998) 17 Cal.4th 119 [70 Cal.Rptr.2d 858]

In re Glad (9th Cir. 1989) 98 B.R. 976

Farnham v. State Bar (1976) 17 Cal.3d 605 [131 Cal.Rptr. 661]

UNAUTHORIZED PRACTICE OF LAW

- Baron v. City of Los Angeles (1970) 2 Cal.3d 535, 542 [86 Cal.Rptr. 673]
Simons v. Steverson (2001) 88 Cal.App.4th 693 [106 Cal.Rptr.2d 193]
Estate of Condon (1998) 65 Cal.App.4th 1138 [76 Cal.Rptr.2d 922]
76 Ops. Cal. Atty. Gen. 208 (9/17/93; No. 93-416)
OR 94-002
Inactive members of the bar
In the Matter of Tady (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 121
LA 426 (1984), SD 1983-12
Department of Unauthorized Practice of Law. [See Complaints or Questions.]
Deposition in California for use in another state
Code of Civil Procedure sections 2026, 2029
"Do-it-yourself"
Howard v. Superior Court (1975) 52 Cal.App.3d 722 [125 Cal.Rptr. 255]
SD 1983-12
Eviction services
People v. Landlord Professional Services, Inc. (1989) 215 Cal.App.3d 1599 [264 Cal.Rptr. 548]
Expert witnesses provided by consulting service
CAL 1984-9
Federal court
Russell v. Hug (9th Cir. 2002) 275 F.3d 812
Spanos v. Skours (1966) 364 F.2d 161
Birbrower, Montalbano, Condon & Frank v. Superior Court (1998) 17 Cal.4th 119 [70 Cal.Rptr.2d 858]
McCue v. State Bar (1930) 211 Cal. 57 [293 P. 47]
Bankruptcy court
attorney not licensed in Arizona, but who is admitted to practice before Arizona district court, can receive fee as counsel for Chapter 13 debtor
In re Poole (9th Cir. BAP 2000) 222 F.3d 618
In re Mendez (1999 BAP) 231 B.R. 86
suspension from federal practice is not dictated by state rules
In re Poole (9th Cir. BAP 2000) 222 F.3d 618
Federal District Courts (Central, Eastern, Northern re State Bar Membership)
Russell v. Hug (9th Cir. 2002) 275 F.3d 812
Z. A. v. San Bruno Park School District (9th Cir. 1999) 165 F.3d 1273
Giannini v. Real (9th Cir. 1990) 911 F.2d 354
Federal district judge's request for attorney fees in action to amend a local rule
Tashima v. Administrative Office of the United States Courts (9th Cir. 1991) 967 F.2d 1264
Federal law
state prohibition of practicing law without a license is assimilated into federal law under Assimilative Crimes Act
United States v. Clark (9th Cir. 1999) 195 F.3d 446
Fees for legal services
must be licensed at time services performed to recover
Birbrower, Montalbano, Condon & Frank v. Superior Court (1998) 17 Cal.4th 119 [70 Cal.Rptr.2d 858]
Hardy v. San Fernando Valley Chamber of Commerce (1950) 99 Cal.App.2d 572, 576 [222 P.2d 314]
non-attorney's law firm representative of injured employee at workers' compensation proceeding may not be entitled to same fees as licensed attorney
99 Cents Only Stores v. Workers' Compensation Appeals Board (2000) 80 Cal.App.4th 644 [95 Cal.Rptr.2d 659]
Financing arrangements jointly controlled by buyer and seller may constitute unlawful, unfair, and fraudulent business practices
Hernandez v. Atlantic Finance Co. (1980) 105 Cal.App.3d 65 [164 Cal.Rptr. 279]
Foreign attorney in law office
Rule 988, California Rules of Court
LA 426 (1984)
Guardian ad litem
Mossanen v. Manfred (2000) 77 Cal.App.4th 1402 [92 Cal.Rptr.2d 459]
J.W., a Minor, etc. v. Superior Court (1993) 17 Cal. App.4th 958 [22 Cal.Rptr.2d 527]
Holding oneself out as entitled to practice law
contempt of court
Business and Professions Code section 6127(b)
disclaimer explaining that the advertiser is not licensed may permit use of terms (i.e., "accountants") which are normally used only by state licensees
Moore v. California State Board of Accountancy (1992) 2 Cal.4th 999 [9 Cal.Rptr.2d 358]
Business and Professions Code section 6127
honorific "ESQ" appended to a signature creates an impression that the person signing is presently able and entitled to practice law
In the Matter of Wyrick (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 83
CAL 1999-154
lawyer
-disbarred or under suspension
Crawford v. State Bar (1960) 54 Cal.2d 659 [7 Cal.Rptr. 746]
Business and Professions Code sections 6125, 6126, and 6127
letterhead of New York law firm listing a California lawyer as "admitted in California only"
Simons v. Steverson (2001) 88 Cal.App.4th 693 [106 Cal.Rptr.2d 193]
misdemeanor where person not active member of the State Bar of California
Business and Professions Code section 6126 (a)
non-lawyers
Business and Professions Code section 6127(b)
In re Naney (1990) 51 Cal.3d 186 [793 P.2d 54]
In re Cadwell (1975) 15 Cal.3d 762 [125 Cal.Rptr. 889, 543 P.2d 257]
non-member administrative proceeding advisor
Z. A. v. San Bruno Park School District (9th Cir. 1999) 165 F.3d 1273
suspension order disqualifies an attorney not only from practicing law but also from holding himself or herself out as entitled to practice
Arm v. State Bar (1990) 50 Cal.3d 763, 775 [268 Cal.Rptr. 789, 789 P.2d 922]
In the Matter of Wyrick (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 83
In the Matter of Tady (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 121
Immigration matters
use of Notarios or Notarios publicos
In re Valinoti (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 498
Inactive member
In the Matter of Tady (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 121
Ineffective assistance of counsel
People v. Johnson (1990) 224 Cal.App.3d 52
in-house counsel representing insureds
CAL 1987-91
Internet advertising
CAL 2001-155
Investigation service
in personal injury matters
-not agree to collect any claim for damages
--not practice of law
LA 81 (1935)

UNAUTHORIZED PRACTICE OF LAW

Lay person

treble damages warranted for injury caused by unlicensed practice of law

Drake v. Superior Court (1994) 21 Cal.App.4th 1826 [26 Cal.Rptr.2d 829]

McKay v. Longsworth (1989) 211 Cal.App.3d 1592 [260 Cal.Rptr. 250]

may not represent another

Mossanen v. Manfared (2000) 77 Cal.App.4th 1402 [92 Cal.Rptr.2d 459]

Ziegler v. Nickel (1998) 64 Cal.App.4th 545 [75 Cal.Rptr.2d 312]

J.W., a minor, etc. v. Superior Court (1993) 17 Cal.App.4th 958 [22 Cal.Rptr.2d 527]

Abar v. Rogers (1981) 124 Cal.App.3d 862 [177 Cal.Rptr. 655]

may not represent unincorporated association in court

Clean Air Transport Systems v. San Mateo County Transit District (1988) 243 Cal.Rptr. 799

represents before administrative agency

Z. A. v. San Bruno Park School District (9th Cir. 1999) 165 F.3d 1273

Caressa Camille Inc. v. Alcohol Beverage Control Appeals Board (2002) 99 Cal.App.4th 1094 [121 Cal.Rptr.2d 758] LA 195 (1952)

Legal services corporation which includes non-attorney see shareholders

LA 444 (1987)

Lending name of attorney

to be used by non-lawyer

-in collection cases

LA 61 (1930)

Lending to non-attorney

Business and Professions Code section 6105

McGregor v. State Bar (1944) 24 Cal.2d 283, 286-287 [148 P.2d 865]

Letterhead

in-house counsel for insurance company representing insureds

CAL 1987-91

use of attorney's by non-lawyer

CAL 1969-18

Licensed attorneys who are not active members of the State Bar of California

certification of non-resident, out-of-state attorney arbitration representatives

Code of Civil Procedure section 1282.4

effect on underlying matter

Birbrower, Montalbano, Condon & Frank v. Superior Court (1998) 17 Cal.4th 119 [70 Cal.Rptr.2d 858]

*People v. Barillas (1996) 45 Cal.App.4th 1233 [53 Cal.Rptr.2d 418]

People v. Medler (1986) 177 Cal.App.3d 927 [223 Cal.Rptr. 401]

Gomez v. Roney (1979) 88 Cal.App.3d 274

out-of-state attorneys

Russell v. Hug (9th Cir. 2002) 275 F.3d 812

Z. A. v. San Bruno Park School District (9th Cir. 1999) 165 F.3d 1273

Giannini v. Real (9th Cir. 1990) 911 F.2d 354

Birbrower, Montalbano, Condon & Frank v. Superior Court (1998) 17 Cal.4th 119 [70 Cal.Rptr.2d 858]

Estate of Condon (1998) 65 Cal.App.4th 1138 [76 Cal.Rptr.2d 922]

In re McCue (1930) 211 Cal. 57, 67 [293 P. 47]

Cowen v. Calabrese (1964) 230 Cal.App.2d 870, 872 [41 Cal.Rptr. 441]

-subject to liability for malpractice

Kracht v. Perrin, Gartland & Doyle (1990) 219 Cal.App.3d 1019 [268 Cal.Rptr. 637]

see also:

40 So. Cal. L. Rev. 569

11 ALR3d 907

19 Stanf. L. Rev. 856

Living Trusts

In re Mid-American Living Trust Association, Inc., et al. (Missouri 1996) 927 S.W.2d 855

The Florida Bar Re Advisory Opinion-Nonlawyer Preparation of Living Trusts (Fla. 1992) 613 So.2d 426 CAL 1997-148

Medical-legal consulting service

Ojeda v. Sharp Cabrillo Hospital (1992) 8 Cal.App.4th 1

Name of attorney

use of, by non-lawyer

LA 16 (1922)

Non-lawyers

bankruptcy petition preparers

code provision requiring public disclosure of petition preparers' social security numbers does not violate equal protection, due process, and right to privacy

In re Crawford (9th Cir. 1999) 194 F.3d 954 [3 Cal.Bankr.Ct.Rep. 46]

certified law student

People v. Perez (1979) 24 Cal.3d 133, 142 [155 Cal.Rptr. 176, 594 P.2d 1]

certified public accountant

Zelkin v. Caruso Discount Corp. (1960) 186 Cal.App.2d 802, 805-806 [9 Cal.Rptr. 220]

Agran v. Shapiro (1954) 127 Cal.App.2d Supp. 807, 815 [273 P.2d 619]

collection agencies

LeDoux v. Credit Research Corp. (1975) 52 Cal.App.3d 451, 454 [125 Cal.Rptr. 166]

Cohn v. Thompson (1932) 128 Cal.App. Supp. 783, 787

contract negotiation

In re Carlos (C.D. Cal. 1998) 227 B.R. 535 [3 Cal.Bankr.Ct.Rep. 80]

corporation

-need not be represented by counsel before administrative agencies

Caressa Camille Inc. v. Alcohol Beverage Control Appeals Board (2002) 99 Cal.App.4th 1094 [121 Cal.Rptr.2d 758]

-representation by, prohibited in court of law

Merco Constr. Eng. Inc. v. Municipal Court (1978) 21 Cal.3d 724 [147 Cal.Rptr. 631, 581 P.2d 636]

corporation formation

LA 69 (1933)

divorce center

SD 1983-12

effect on underlying matter

Russell v. Dopp (1995) 36 Cal.App.4th 765 [42 Cal.Rptr.2d 768]

City of Downey v. Johnson (1968) 263 Cal.App.2d 775 [69 Cal.Rptr. 630]

People ex rel Dept. of Public Works v. Malone (1965) 232 Cal.App.2d 531, 537 [42 Cal.Rptr. 888]

eviction service

People v. Landlords Professional Services (1989) 215 Cal.App.3d 1599 [264 Cal.Rptr. 548]

executor of estate

City of Downey v. Johnson (1968) 263 Cal.App.2d 775, 778 [69 Cal.Rptr. 830]

heir hunter

Estate of Butler (1947) 29 Cal.2d 644, 651 [177 P.2d 16]

Estate of Wright (2001) 90 Cal.App.4th 228 [108 Cal.Rptr.2d 572]

Estate of Collins (1968) 268 Cal.App.2d 86, 92 [73 Cal.Rptr. 599]

insurance adjuster

Insurance Code section 14000 et. seq.

Insurance Code section 15002 et. seq.

In the Matter of Bragg (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 615

insurance company

Woodriff v. McDonald's Restaurants (1977) 75 Cal.App.3d 655, 658 [142 Cal.Rptr. 367]

UNAUTHORIZED PRACTICE OF LAW

- law clerks
 - Johnson v. Davidson (1921) 54 Cal.App. 251, 257 [202 P. 159]
 - SD 1983-7, SD 1974-5
- law students
 - SD 1983-7, SD 1974-1, SD 1973-9
- living trust marketers
 - In re Mid-American Living Trust Association, Inc., et al (Missouri 1996) 927 S.W.2d 855
 - The Florida Bar Re Advisory Opinion–Nonlawyer Preparation of Living Trusts (Fla. 1992) 613 So.2d 426 CAL 1997-148
- negotiate reaffirmation agreement with chapter 7 debtors
 - In re Carlos (C.D. Cal. 1998) 227 B.R. 535 [3 Cal.Bankr.Ct.Rep. 80]
 - In the Matter of Bragg (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 615
- non-member administrative proceeding advisor
 - Z. A. v. San Bruno Park School District (9th Cir. 1999) 165 F.3d 1273
- notary public
 - Biakanja v. Irving (1958) 49 Cal.2d 647 [320 P.2d 16]
 - Vanderhoof v. Prudential Sav. & Loan Assn. (1975) 46 Cal.App.3d 507 [120 Cal.Rptr. 207]
 - 76 Ops. Cal. Atty. Gen. 193 (8/30/93; No. 93-303)
- paralegals
 - Jacoby v. State Bar (1977) 19 Cal.3d 359, 364, fn.3 OR 94-002
 - appearance before Workers' Compensation Appeals Board
 - CAL 1988-103
 - general guidelines
 - SD 1983-7, SD 1976-9
- penalties and other effects
 - In re Carpenter (1931) 213 Cal. 122 [1 P.2d 983]
 - Mickel v. Murphy (1957) 147 Cal.App.2d 718, 722 [305 P.2d 993]
- probation officer
 - In re Steven C. (1970) 9 Cal.App.3d 255, 265 [88 Cal.Rptr. 97]
- providing small claims, para-court services in partnership with attorney
 - SD 1983-4
- real estate brokers
 - People v. Sipper (1943) 61 Cal.App.2d Supp. 844, 846-847 [142 P.2d 960]
- trustee represents interests of beneficiaries
 - Ziegler v. Nickel (1998) 64 Cal.App.4th 545 [75 Cal.Rptr.2d 312]
- Out-of-state attorneys
 - Russell v. Hug (9th Cir. 2002) 275 F.3d 812
 - Giannini v. Real (9th Cir. 1990) 911 F.2d 354
 - Estate of Condon (1998) 65 Cal.App.4th 1138 [76 Cal.Rptr.2d 922]
 - In re McCue (1930) 211 Cal. 57, 67 [293 P. 47]
 - Cowen v. Calabrese (1964) 230 Cal.App.2d 870, 872 [41 Cal.Rptr. 441]
 - California may exercise personal jurisdiction over out-of-state law firm that employs California member performing legal services governed by California law
 - Simons v. Steverson (2001) 88 Cal.App.4th 693 [106 Cal.Rptr.2d 193]
- certification of non-resident, out-of-state attorney representatives
 - Code of Civil Procedure section 1282.4
- subject to liability for malpractice
 - Kracht v. Perrin, Gartland & Doyle (1990) 219 Cal.App.3d 1019 [268 Cal.Rptr. 637]
- see also:
 - 40 So. Cal. L.Rev. 569
 - 11 ALR 907
 - 19 Stanf.L.Rev. 856
- Participate in activity that assists unauthorized practice of law
 - LA 286 (1965)
- as partner in agency conducting small claims court actions
 - SD 1983-4
- renting law office
 - to out-of-state lawyer
 - where public led to believe person admitted in California
 - LA 99 (1936)
- Partnership with non-lawyer
 - LA 444 (1987), LA 372 (1978), LA 335 (1973)
- Power of attorney
 - Estate of Wright (2001) 90 Cal.App.4th 228 [108 Cal.Rptr.2d 572]
 - Ziegler v. Nickel (1998) 64 Cal.App.4th 545 [75 Cal.Rptr.2d 312]
 - Drake v. Superior Court (1994) 21 Cal.App.4th 1826 [26 Cal.Rptr.2d 829]
 - Alexander v. Robertson (9th Cir. 1990) 882 F.2d 421
 - Porter v. State Bar (1990) 52 Cal.3d 518
 - People ex rel Dept. of Public Works v. Malone (1965) 232 Cal.App.2d 531, 537 [42 Cal.Rptr. 888]
 - 76 Ops. Cal. Atty. Gen. 208 (9/17/93; No. 93-416)
- Practice in jurisdiction, outside of California, where attorney is not licensed
 - In the Matter of Collins (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 1
- Practice of law, defined
 - Birbrower, Montalbano, Condon & Frank v. Superior Court (1998) 17 Cal.4th 119 [70 Cal.Rptr.2d 858]
 - Morgan v. State Bar (1990) 51 Cal.3d 598
 - Farnham v. State Bar (1976) 17 Cal.3d 605 [131 Cal.Rptr. 661]
 - Baron v. City of Los Angeles (1970) 2 Cal.3d 535, 542 [86 Cal.Rptr. 673]
 - Simons v. Steverson (2001) 88 Cal.App.4th 693 [106 Cal.Rptr.2d 193]
 - Estate of Condon (1998) 65 Cal.App.4th 1138 [76 Cal.Rptr.2d 922]
 - 76 Ops. Cal. Atty. Gen. 208 (9/17/93; No. 93-416)
 - OR 94-002, SD 1983-4, SD 1983-7
- Prepare petition for court of another state
 - LA 218 (1953)
- Pro hac vice
 - Rule 983, California Rules of Court
 - Paciulan v. George (9th Cir. 2000) 229 F.3d 1226
 - Bankruptcy of Mortgage & Realty Trust (1996) 195 B.R. 740
- defendant not entitled to pro hac vice representation by attorney who failed to follow court rules
 - United States v. Ries (9th Cir. 1996) 100 F.3d 1469
- duties of associate counsel
 - People v. Cooks (1983) 141 Cal.App.3d 224 [190 Cal.Rptr. 211]
- Questions about re: research assistance on activities of law clerks, paralegals, and inactive members.
 - Contact: Unauthorized Practice of Law
 - Office of Professional Competence, Planning & Development
 - 180 Howard Street
 - San Francisco, CA 94105
 - (415) 538-2150
 - (800) 238-4427 (within CA)
- Representation by non-lawyer in court of law prohibited
 - Merco Const. Eng. v. Municipal Court (1978) 21 Cal. 3d 724, 727, 733 [147 Cal.Rptr. 631, 581 P.2d 636]
 - Rule 3-101, Rules of Professional Conduct (operative until May 26, 1989)
 - Rule 1-300, Rules of Professional Conduct (operative as of May 27, 1989)
 - Bluestein v. State Bar (1974) 13 Cal.3d 162, 173 [118 Cal.Rptr. 175, 529 P.2d 599]

UNPOPULAR CAUSE

Sanctions

guarantee of right to counsel denied when representation is provided by an attorney who has submitted a resignation with disciplinary charges pending and placed on inactive status

In re Johnson (1992) 1 Cal.App.4th 689

monetary award against law firm proper sanction for aiding in unauthorized practice of law

In re Carlos (C.D. Cal. 1998) 227 B.R. 535 [3 Cal.Bankr.Ct.Rep. 80]

voiding judgment inappropriate where it neither protects judicial integrity nor vindicates interests of parties

Alexander v. Robertson (9th Cir. 1989) 882 F.2d 421

Retail Clerks Union Joint Pension Trust v. Freedom Food Center, Inc. (9th Cir. 1991) 938 F.2d 136

Special hearings

administrative proceeding

Z. A. v. San Bruno Park School District (9th Cir. 1999) 165 F.3d 1273

alcohol beverage control appeals board

Caressa Camille Inc. v. Alcohol Beverage Control Appeals Board (2002) 99 Cal.App.4th 1094 [121 Cal.Rptr.2d 758]

arbitrations

certification of non-resident, out-of-state attorney representatives

Code of Civil Procedure section 1282.4

city council proceedings

Baron v. City of Los Angeles (1970) 2 Cal.3d 535, 543 [86 Cal.Rptr. 673, 496 P.2d 353]

justice court proceedings

Gray v. Justice's Court (1937) 18 Cal.App.2d 420, 423 [63 P.2d 1160]

patent

Sperry v. Florida (1963) 373 U.S. 379 [83 S. Ct. 1322, 10 L. Ed. 2d 428]

Schroeder v. Wheeler (1932) 126 Cal.App.367 [14 P.2d 903]

public utilities commission proceedings

Consumers Lobby Against Monopolies v. PUC (1979) 25 Cal.3d 891, 913 [160 Cal.Rptr. 124, 603 P.2d 41]

80 Ops. Cal. Atty. Gen. 221 (8/5/97; No. 97-409)

securities arbitration proceedings

Linsco/Private Ledger v. Investors Arbitration Services (1996) 50 Cal.App.4th 1633 [58 Cal.Rptr.2d 613]

workers' compensation proceedings

Eagle Indemnity Co. v. Industrial Accident Commission (1933) 217 Cal. 244, 247 [18 P.2d 341]

CAL 1988-103

disbarred or suspended attorney may be excluded from participation in Workers' Compensation proceedings

Title 8 CA Administration Code section 10779

non-attorney's law firm representative of injured employee at workers' compensation proceeding may not be entitled to same fees as licensed attorney

99 Cents Only Stores v. Workers' Compensation Appeals Board (2000) 80 Cal.App.4th 644 [95 Cal.Rptr.2d 659]

State Bar Act of 1927

Section 47.49

People v. Ring (1937) 26 Cal.App.2d Supp. 768, 771

Transactional matter

Simons v. Steverson (2001) 88 Cal.App.4th 693 [106 Cal.Rptr.2d 193]

Treble damages in civil action caused by unlicensed persons

CCP § 1029.8

Unfair business practices and unlawful advertising

Business and Professions Code section 17200

Unincorporated association

lay person may not represent in court

Clean Air Transport Systems v. San Mateo County Transit District (1988) 243 Cal.Rptr. 799

UNPOPULAR CAUSE

Business and Professions Code section 6068(h)

UNREPRESENTED PERSON [See Communication, Not represented by counsel.]

USURY

CA Constitution Art. 15, Usury § 1, par. 2

on past due receivables

CAL 1980-53, LA 374 (1978), LA 370 (1978)

SD 1983-1, SD 1976-8, SF 1970-1

Enforce usurious claim

LA 44 (1927)

VIOLATION OF THE LAW [See Advising violation of the law.]

WILL [See Estate. Trustee.]

Attorney as beneficiary

undue influence

Magee v. State Bar (1962) 58 Cal.2d 423 [24 Cal.Rptr. 839, 374 P.2d 807]

LA 462 (1990)

Attorney as beneficiary of trust

Bank of America v. Angel View Crippled Children's Foundation (1998) 72 Cal.App.4th 451 [85 Cal.Rptr.2d 117]

Counsel for organization drafts for those leaving money to it

LA 428 (1984), LA(l) 1966-17

Given to executor after incompetency of client

LA 229 (1955)

Person who must sign will is a client regardless of who has sought out and employed the attorney

SD 1990-3

WIRETAPPING [See Recording.]

WITHDRAWAL FROM EMPLOYMENT [See Conflict of interest.

Files. Public office. Substitution of counsel.]

Code of Civil Procedure section 284, et seq.

Rule 376, California Rules of Court

Rules 2-111 and 8-101, Rules of Professional Conduct (operative until May 26, 1989)

Rules 3-700 and 4-100, Rules of Professional Conduct (operative as of May 27, 1989)

Appeal

indigent defendant constitutionally entitled to counsel's best argument for appeal before court rules on withdrawal

United States v. Griffy (9th Cir. 1990) 895 F.2d 561

Associate leaving law firm

CAL 1985-86, LA 405 (1982)

Attorney appointed by court to represent a minor

In re Jesse C. (1999) 71 Cal.App.4th 1481 [84 Cal.Rptr.2d 609]

Attorney as advisor for an in propria persona litigant

LA 502 (1999)

Attorney as witness

Smith, Smith & Kring v. Superior Court (1997) 60 Cal.App.4th 573 [70 Cal.Rptr.2d 507]

Kirsch v. Duryea (1978) 21 Cal.3d 303, 310 [146 Cal.Rptr. 218, 578 P.2d 935]

Comden v. Superior Court (1978) 20 Cal.3d 906 [145 Cal.Rptr. 9, 576 P.2d 971]

People v. Goldstein (1982) 130 Cal.App.3d 1024 [182 Cal.Rptr. 207]

People v. Goldstein (1981) 126 Cal.App.3d 550, 554 [178 Cal.Rptr. 894]

Reich v. Club Universe (1981) 125 Cal.App.3d 965 [178 Cal.Rptr. 473]

Lyle v. Superior Court (1981) 122 Cal.App.3d 470, 474 [175 Cal.Rptr. 918]

Chronometrics, Inc. v. Sysgen, Inc. (1980) 110 Cal.App.3d 597, 605 [168 Cal.Rptr. 196]

People v. Ballard (1980) 104 Cal.App.3d 757, 761 [164 Cal.Rptr. 81]

Harris v. Superior Court (1979) 97 Cal.App.3d 488, 492 [158 Cal.Rptr. 807]

Graphic Process Co. v. Superior Court (1979) 95 Cal.App.3d 43, 50 [156 Cal.Rptr. 841]

Brown v. DeRugieris (1979) 92 Cal.App.3d 895 [155 Cal.Rptr. 301]

People ex rel Younger v. Superior Court (1978) 86 Cal.App.3d 180 [150 Cal.Rptr. 156]

*People v. Superior Court (Hollenbeck) (1978) 84 Cal.App.3d 491, 500 [148 Cal.Rptr. 704]

WITHDRAWAL FROM EMPLOYMENT

- People v. Guerrero (1975) 47 Cal.App.3d 441, 446 [120 Cal.Rptr. 732]
People v. Smith (1970) 13 Cal.App.3d 897, 903 [91 Cal.Rptr. 786]
Kalmus v. Kalmus (1951) 103 Cal.App.2d 405, 423 [230 P.2d 57]
 LA 399 (1982)
 Attorney for guardian ad litem
Mossanen v. Manfared (2000) 77 Cal.App.4th 1402 [92 Cal.Rptr.2d 459]
Torres v. Friedman (1985) 169 Cal.App.3d 880, 888 [215 Cal.Rptr. 604]
 Attorney who might be called as witness not required to withdraw with written consent of client
Smith, Smith & Kring v. Superior Court (1997) 60 Cal.App.4th 573 [70 Cal.Rptr.2d 507]
People v. Goldstein (1982) 130 Cal.App.3d 1024 [182 Cal.Rptr. 207]
 Attorney-client relationship not established
 LA(l) 1968-7
 Before suing client for fee
 LA 476 (1994), LA 407 (1982), LA 362 (1976), LA 212 (1953)
 Cannot provide level of advocacy required by rule 6-101
People v. Munoz (1974) 411 Cal.App.3d 62 [115 Cal.Rptr. 726]
 Class action
 duty of class counsel runs to the class and, in the event of conflicts, withdrawal is appropriate
7-Eleven Owners for Fair Franchising v. The Southland Corporation (2000) 85 Cal.App.4th 1135 [102 Cal.Rptr.2d 277]
 Client
 appears to have abandoned case
 CAL 1989-111
 LA 441 (1987), LA(l) 1958-1
 burden to prove
William H. Raley Co. v. Superior Court (1983) 149 Cal.App.3d 1042, 1048 [197 Cal.Rptr. 232]
 cannot be located
 CAL 1989-111
 LA 441 (1987)
 claims cannot pay fee
 LA 356 (1976)
 SD 1983-6
 commits
 -fraud
 LA 329 (1972)
 SF 1977-2
 -perjury
 CAL 1983-74
 LA(l) 1974-7
 conducts undercover surveillance of opposing party
 LA 315 (1970)
 engaged in unlawful activity
 LA 353 (1976)
 intends to commit perjury
People v. Brown (1988) 203 Cal.App.3d 1335
 LA 362 (1976)
 objects to fee
 LA 211 (1953)
 perjured testimony
 CAL 1983-74
 refuses to file accurate fiduciary accounting
 SD 1983-10
 refuses to follow advice
 LA 362 (1976)
 unable to pay fee
 LA 251 (1958)
 uncooperativeness of client
Shukry Messih v. Lee Drug, Inc. (1985) 174 Cal.App.3d 312, 313-314 [220 Cal.Rptr. 43]
 Client conduct renders continued representation unreasonably difficult
 leads attorney to believe client needs a conservator
 OR 95-002
 Client's refusal to cooperate with attorney's withdrawal does not excuse attorney from making motion to be removed as counsel of record
In the Matter of Doran (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 871
 Code of Civil Procedure section 284
Ramirez v. Sturdevant (1994) 21 Cal.App.4th 904 [26 Cal.Rptr.2d 554]
People v. Bouchard (1957) 49 Cal.2d 438, 440 [317 P.2d 971]
Roswall v. Municipal Court (1979) 89 Cal.App.3d 467, 472 [152 Cal.Rptr. 337]
Mandell v. Superior Court (1977) 67 Cal.App.3d 1, 4 [136 Cal.Rptr. 354]
People v. Prince (1968) 268 Cal.App.2d 398, 406 [74 Cal.Rptr. 197]
People v. Kerfoot (1960) 184 Cal.App.2d 622, 635 [7 Cal.Rptr. 674]
Kalmus v. Kalmus (1951) 103 Cal.App.2d 405, 423-424 [230 P.2d 57]
 Compensation dispute
People v. Prince (1968) 268 Cal.App.2d 398, 406 [74 Cal.Rptr. 197]
People v. Collins (1966) 242 Cal.App.2d 626, 636 [51 Cal.Rptr. 604]
Helpe v. Kluge (1951) 104 Cal.App.2d 461 [231 P.2d 505]
Cassell v. Gregori (1937) 28 Cal.App.2d Supp. 769, 771
Linn v. Superior Court (1926) 79 Cal.App. 721 [250 P. 880]
 LA 251 (1958), LA 212 (1953)
 SD 1983-6
 Competence of attorney
People v. Strozier (1993) 20 Cal.App.4th 55 [24 Cal.Rptr.2d 362]
 Conflict of interest
Hodcarriers, etc. Local Union v. Miller (1966) 243 Cal.App.2d 391 [52 Cal.Rptr. 251]
 SD 1972-1
 appearance of impropriety due to counsel's relationship with judge may be cured by withdrawal
In re Georgetown Park Apartments (9th Cir. 1992) 143 B.R. 557
 becoming apparent
 LA 333 (1973), LA 219 (1954)
 multiple representation
 -where client's interests become adverse
Zador Corp. v. Kwan (1995) 31 Cal.App.4th 1285 [37 Cal.Rptr.2d 754]
 CAL 1988-96
 LA 471 (1992), LA 459 (1990), LA 427 (1984), LA 395 (1982)
 vicarious disqualification where "of counsel" attorney and law firm represented opposing parties and where "of counsel" attorney obtained confidential information and provided legal services to client
People ex rel. Dept. of Corporations v. Speedee Oil Change Systems (1999) 20 Cal.4th 1135 [86 Cal.Rptr.2d 816]
 Contract for employment
 includes substitution of attorney clause
 LA 371 (1977)
 Control by court
DeRecat Corp. v. Dunn (1926) 197 Cal. 787 [242 P. 936]
In re Jesse C. (1999) 71 Cal.App.4th 1481 [84 Cal.Rptr.2d 609]
Gion v. Stroud (1961) 191 Cal.App.2d 277 [12 Cal.Rptr. 540]
Cassel v. Gregori (1937) 28 Cal.App.2d Supp. 769 [70 P.2d 721]
Linn v. Superior Court (1926) 79 Cal.App. 721
 discretion

WITHDRAWAL FROM EMPLOYMENT

- People v. Turner (1992) 7 Cal.App.4th 913
People v. Brown (1988) 203 Cal.App.3d 1335
People v. Stevens (1984) 156 Cal.App.3d 1119, 1128 [203 Cal.Rptr. 505]
substitution sought on morning of probation revocation hearing
People v. Turner (1992) 7 Cal.App.4th 913
- Criminal cases
following impeachment of a prosecution witness by prosecutor's own testimony
People v. Donaldson (2001) 93 Cal.App.4th 916 [113 Cal.Rptr.2d 548]
not required, defense counsel may Wendt appellate briefs instead
Smith v. Robbins (2000) 528 U.S. 259 [120 S.Ct. 746]
- De facto withdrawal
In the Matter of Miller (Review Dept. 1990) 1 Cal. State Bar Ct. Rptr. 131
- Delay in serving complaint excused, in part, because of a last minute change of attorneys
Yao v. Anaheim Eye Medical Group (1992) 10 Cal.App.4th 1024 [12 Cal.Rptr.2d 856]
- Dependency proceedings
In re Jesse C. (1999) 71 Cal.App.4th 1481 [84 Cal.Rptr.2d 609]
inability to provide competent legal services because of disagreement with a minor client
LA 504 (2000)
- Discharge of attorney
Jeffrey v. Pounds (1977) 67 Cal.App.3d 6, 9 [136 Cal.Rptr. 373]
- Disclosure of client confidence or secret during withdrawal
Manfredi & Levine v. Superior Court (1998) 66 Cal.App.4th 1129 [78 Cal.Rptr. 494]
People v. McLeod (1989) 210 Cal.App.3d 585 [258 Cal.Rptr. 496]
LA 498 (1999)
- Disqualification of counsel
entire firm disqualified
William H. Raley Co. v. Superior Court (1983) 149 Cal.App.3d 1042, 1049 [197 Cal.Rptr. 232]
trial court has power
William H. Raley Co. v. Superior Court (1983) 149 Cal.App.3d 1042, 1048 [197 Cal.Rptr. 232]
- Dissolution of law firm
notice to clients
CAL 1985-86
- Domestic relations case
Code of Civil Procedure section 285.1
Reynolds v. Reynolds (1943) 21 Cal.2d 580
SF 1973-5, SF 1977-2
- Duties not altered by who terminates relationship
Kallen v. Delug (1984) 157 Cal.App.3d 940, 950 [203 Cal.Rptr. 879]
- Duty to avoid foreseeable prejudice
Martin v. State Bar (1991) 52 Cal.3d 1055
Natali v. State Bar (1988) 45 Cal.3d 456 [247 Cal.Rptr. 165]
Kapelus v. State Bar (1987) 44 Cal.3d 179
Frazer v. State Bar (1987) 43 Cal.3d 564 [238 Cal.Rptr. 54]
Franklin v. State Bar (1986) 41 Cal.3d 700 [244 Cal.Rptr. 738]
Stuart v. State Bar (1985) 40 Cal.3d 838, 842 [221 Cal.Rptr. 557]
In the Matter of Dahlz (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 269
In the Matter of Doran (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 871
CAL 1992-127
- Duty to client and administration of justice require effectuation of consensual withdrawal or motion under Code of Civil Procedure section 284
Ramirez v. Sturdevant (1994) 21 Cal.App.4th 904 [26 Cal.Rptr.2d 554]
In re Hickey (1990) 50 Cal.3d 571 [788 P.2d 684]
- Duty to impart information to third parties at former client's request
LA 360 (1976), LA 330 (1972)
- Duty to represent client until court approves withdrawal
Ramirez v. Sturdevant (1994) 21 Cal.App.4th 904 [26 Cal.Rptr.2d 554]
In re Jackson (1985) 170 Cal.App.3d 773 [216 Cal.Rptr. 539]
- Effect on contingency fee contract
Ramirez v. Sturdevant (1994) 21 Cal.App.4th 904 [26 Cal.Rptr.2d 554]
Estate of Falco (1986) 188 Cal.App.3d 1004 [233 Cal.Rptr. 807]
Hensel v. Cohen (1984) 155 Cal.App.3d 563 [202 Cal.Rptr. 85]
- Failure to execute a substitution of attorney
In the Matter of Tindall (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 652
- Failure to return client property
Martin v. State Bar (1991) 52 Cal.3d 1055
- Failure to return unearned fees
Harford v. State Bar (1990) 52 Cal.3d 93
In the Matter of Johnson (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 179
In the Matter of Lantz (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 126
In the Matter of Aulakh (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 690
In the Matter of Frazier (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 676
In the Matter of Bach (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 631
- Failure to take reasonable steps to avoid prejudice by first attorney's lack of cooperation with client's new attorney
Friedman v. State Bar (1990) 50 Cal.3d 235
- File
King v. State Bar (1990) 52 Cal.3d 307
Cal Pak Delivery v. United Parcel Service (1997) 52 Cal.App.4th 1 [60 Cal.Rptr.2d 207]
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+In the Matter of Aguiluz (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 32
In the Matter of Robins (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 708
In the Matter of Tindall (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 652
CAL 1992-127
mental health records in file must be released to client notwithstanding written notice from health care provider that disclosure may be detrimental to client
LA 509 (2002)
multiple clients each demand the original
LA 493 (1998)
- For non-payment of fee
LA 362 (1976), LA 212 (1953)
notice to client
LA 125 (1940)
SD 1978-7
suit for fees
LA 476 (1994) LA 407 (1982), LA 362 (1976) LA 212 (1953)
- Former client, not party, objects to representation
LA(I) 1976-3
- Frivolous appeal
brief requirement prior to withdrawal discussing frivolous appeal deemed permissible
McCoy v. Court of Appeals of Wisconsin (1988) 486 U.S. 429 [108 S.Ct. 1895]

WITHDRAWAL FROM EMPLOYMENT

If client persists in illegitimate acts

Davis v. State Bar (1983) 33 Cal.3d 231 [188 Cal.Rptr. 441, 655 P.2d 1276]

Inability to work with co-counsel

Beck v. Wecht (2002) 28 Cal.4th 289 [121 Cal.Rptr.2d 384]

Incompetence of attorney

LA 383 (1979)

Ineffective assistance of counsel as basis for motion

Smith v. Robbins (2000) 528 U.S. 259 [120 S.Ct. 746]

Delgado v. Lewis (9th Cir. 2000) 223 F.3d 976

People v. Garcia (1991) 227 Cal.App.3d 1369 [278 Cal.Rptr. 517]

Legal aid lawyer

CAL 1981-64, SD 1983-6, SF 1973-5

Mandatory withdrawal

Rule 2-111(B), Rules of Professional Conduct (operative until May 26, 1989)

Rule 3-700, Rules of Professional Conduct (operative as of May 27, 1989)

In re Hickey (1990) 50 Cal.3d 571 [788 P.2d 684]

CAL 1995-139

Minimal requirements

In the Matter of Dahlz (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 269

Motion for

Rule 376, California Rules of Court

attorney may declare a conflict of interest without disclosing facts

Aceves v. Superior Court (1996) 51 Cal.App.4th 584 [59 Cal.Rptr.2d 280]

attorney should honor client's instructions not to disclose confidential information

LA 504 (2000)

may be denied if attorney fails to provide even general information regarding nature of ethical dilemma

Manfredi & Levine v. Superior Court (1998) 66 Cal.App.4th 1128 [78 Cal.Rptr. 494]

Neglect [See Neglect.]

protect client's position in litigation

LA 125 (1940)

Neighborhood Legal Assistance Foundation

SF 1973-5

Notice of withdrawal not communicated to client is prejudicial

+In the Matter of Aguiluz (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 32

Partial when case against one defendant weak

LA 223 (1954)

Perjury

Rule 2-111(B)(1) and (C)(1)(a), Rules of Professional Conduct (operative until May 26, 1989)

Rule 3-700, Rules of Professional Conduct (operative as of May 27, 1989)

by client

Nix v. Whiteside (1986) 475 U.S. 157 [106 S.Ct. 988]

People v. Johnson (1998) 62 Cal.App.4th 608 [72 Cal.Rptr.2d 805]

People v. Brown (1988) 203 Cal.App.3d 1335

CAL 1983-74, LA 305 (1968)

Permissive withdrawal by attorney

Rule 2-111(C), Rules of Professional Conduct (operative until May 26, 1989)

Rule 3-700, Rules of Professional Conduct (operative as of May 27, 1989)

Ferruzzo v. Superior Court (1980) 104 Cal.App.3d 501 [163 Cal.Rptr. 573]

Chaleff v. Superior Court (1977) 69 Cal.App.3d 721 [138 Cal.Rptr. 735]

Vann v. Shilleh (1975) 54 Cal.App.3d 192 [126 Cal.Rptr. 401]

Lane v. Storke (1909) 10 Cal.App. 347 [101 P. 937]

client's conduct leads attorney to believe client needs a conservator

OR 95-002

Prejudice to client

Delgado v. Lewis (9th Cir. 2000) 223 F.3d 976

Ramirez v. Sturdevant (1994) 21 Cal.App.4th 904 [26 Cal.Rptr.2d 554]

Colangelo v. State Bar (1991) 53 Cal.3d 1255 [283 Cal.Rptr. 181]

Read v. State Bar (1991) 53 Cal.3d 394, Modified at 53 Cal.3d 1009A

Borré v. State Bar (1991) 52 Cal.3d 1047

Martin v. State Bar (1991) 52 Cal.3d 1055

Aronin v. State Bar (1990) 52 Cal.3d 276

Cannon v. State Bar (1990) 51 Cal.3d 1103

In re Billings (1990) 50 Cal.3d 358 [787 P.2d 617]

Silva-Vidor v. State Bar (1989) 49 Cal.3d 1071

Natali v. State Bar (1988) 45 Cal.3d 456 [247 Cal.Rptr. 165]

Kapelus v. State Bar (1987) 44 Cal.3d 179

Frazer v. State Bar (1987) 43 Cal.3d 564 [238 Cal.Rptr. 54]

Franklin v. State Bar (1986) 41 Cal.3d 700

Stuart v. State Bar (1985) 40 Cal.3d 838, 842 [221 Cal.Rptr. 557]

In re Valinoti (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 498

In the Matter of Dahlz (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 269

In the Matter of Lais (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 907

In the Matter of Kaplan (Review Dept. 1996) 3 Cal. State Bar Ct. Rptr. 547

In the Matter of Nunez (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 196

+In the Matter of Aguiluz (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 32

In the Matter of Ward (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 47

In the Matter of Collins (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 1

In the Matter of Frazier (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 676

In the Matter of Bach (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 631

arguing against the interest of client in making motion to withdraw

In the Matter of Doran (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 871

Recusal of district attorney staff, conflict of interest

People v. Lopez (1984) 155 Cal.App.3d 813, 824-826

Representation of a corporation

Ferruzzo v. Superior Court (1980) 104 Cal.App.3d 501 [163 Cal.Rptr. 573]

Request for withdrawal properly denied despite prospect of client perjury

People v. Brown (1988) 203 Cal.App.3d 1335

Return papers and property to client

SD 1997-1, SD 1984-3, SD 1977-3

Right to establish in retainer agreement

LA 371 (1977)

Scope of representation

Maxwell v. Cooltech, Inc. (1997) 57 Cal.App.4th 629 [67 Cal.Rptr.2d 293]

LA 483 (1995), LA 476 (1995)

Skilled counsel prejudices criminal defendant

People v. Gzikowski (1982) 32 Cal.3d 580 [186 Cal.Rptr. 339, 651 P.2d 1145]

Substitution of attorney clause in retainer agreement

LA 371 (1977)

Suit for fees

LA 476 (1994), LA 407 (1982), LA 362 (1976), LA 212 (1953)

Timeliness of motion for substitution of counsel

United States v. Moore (9th Cir. 1998) 159 F.3d 1154

WITNESS

Unjustifiable delay in cooperating with client's new attorney
Conroy v. State Bar (1991) 53 Cal.3d 495
King v. State Bar (1990) 52 Cal.3d 307
Friedman v. State Bar (1990) 50 Cal.3d 235
In the Matter of Ward (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 47

Unpaid fee
Rule 2-111(C)(1)(f), Rules of Professional Conduct (operative until May 26, 1989)
Rule 3-700, Rules of Professional Conduct (operative as of May 27, 1989)
Kallen v. Delug (1984) 157 Cal.App.3d 940 [203 Cal.Rptr. 879]
LA 476 (1994), LA 407 (1982), LA 371 (1977), LA 362 (1976), LA 356 (1976), LA 251 (1958), LA 212 (1953), LA(I) 1936-1 by third party
CAL 1981-64
debtor's pursuit of discharge in bankruptcy is not breach of duty to pay
In re Rindlisbacher (9th Cir. BAP 1998) 225 B.R. 180 [33 Bankr.Ct.Dec. 258, 2 Cal.Bankr.Ct.Rep. 43]
no denial of effective assistance of counsel when defendant becomes indigent and retained counsel withdraws because court denies request to appoint the retained counsel
People v. Castillo (1991) 233 Cal.App.3d 36
settlement, conflicting instructions from insured and assured
LA 344 (1974)
suit for fees
LA 476 (1994), LA 407 (1982), LA 362 (1976), LA 212 (1953)

Violation of professional responsibility
Natali v. State Bar (1988) 45 Cal.3d 456 [247 Cal.Rptr. 165]
Vangness v. Superior Court (1984) 159 Cal.App.3d 1087, 1090-1091 [206 Cal.Rptr. 45]
failure to withdraw where required due to incapacity
Slavkin v. State Bar (1989) 49 Cal.3d 894 [264 Cal.Rptr. 131]

Violation of the withdrawal rule is not inconsistent with discipline for failure to communicate
In the Matter of Nunez (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 196
In the Matter of Tindall (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 652

Witness
Rule 2-111(A)(4) and (5), Rules of Professional Conduct (operative until May 26, 1989)
Rule 3-700, Rules of Professional Conduct (operative as of May 27, 1989)
in case
LA 367 (1977), LA 323 (1971)
for client
LA 399 (1982), LA 323 (1971), LA 203 (1952), LA(I) 1970-13

WITNESS [See Lay employee. Testimony.]

Rule 2-111(A)(4) and (5), Rules of Professional Conduct (operative until May 26, 1989)
Rule 5-210, Rules of Professional Conduct (operative as of May 27, 1989)
Rule 7-107, Rules of Professional Conduct (operative until May 26, 1989)
Rule 5-310, Rules of Professional Conduct (operative as of May 27, 1989)

Attorney as
Smith, Smith & Kring v. Superior Court (1997) 60 Cal.App.4th 573 [70 Cal.Rptr.2d 507]
Comden v. Superior Court (1978) 20 Cal.3d 906 [145 Cal.Rptr. 9, 576 P.2d 971]
about nature and value of services rendered
Brandt v. Superior Court (1985) 37 Cal.3d 813, 820 fn.7 [210 Cal.Rptr. 211]
Municipal Court v. Bloodgood (1982) 137 Cal.App.3d 29 [186 Cal.Rptr. 807]

against criminal defendant
*Olson v. Superior Court (1984) 157 Cal.App.3d 780, 791 [204 Cal.Rptr. 217]
United States v. Edwards (9th Cir. 1998) 154 F.3d 915

against former client
LA 75 (1934)

associate of attorney as
LA 399 (1982)

before grand jury
In re Grand Jury Proceedings (9th Cir. 1998) 162 F.3d 554

behalf of adverse party
-duty to assert privilege
LA 20 (1923)

calling former associate as witness
LA 399 (1982)

client's right to counsel of choice
Smith, Smith & Kring v. Superior Court (1997) 60 Cal.App.4th 573 [70 Cal.Rptr.2d 507]
Lyle v. Superior Court (1981) 122 Cal.App.3d 470 [175 Cal.Rptr. 918]

consent of client
Smith, Smith & Kring v. Superior Court (1997) 60 Cal.App.4th 573 [70 Cal.Rptr.2d 507]
Reynolds v. Superior Court (1986) 177 Cal.App.3d 1021 [223 Cal.Rptr. 258]
CAL 1993-133
-calling former associate as witness
LA 399 (1982)

for impeachment purposes
Noguchi v. Civil Service Comm. (1986) 187 Cal.App.3d 1521 [232 Cal.Rptr. 394]

not applicable to non-jury trials
Bankruptcy of Mortgage & Realty Trust (1996) 195 B.R. 740

proceeding where representing client
-on behalf of client
Rule 2-111(A)(4), Rules of Professional Conduct (operative until May 26, 1989)
Rule 5-210, Rules of Professional Conduct (operative as of May 27, 1989)
Smith, Smith & Kring v. Superior Court (1997) 60 Cal.App.4th 573 [70 Cal.Rptr.2d 507]
Comden v. Superior Court (1978) 20 Cal.3d 906 [145 Cal.Rptr. 9, 576 P.2d 971]
People v. Goldstein (1982) 130 Cal.App.3d 1024 [182 Cal.Rptr. 207]
LA 367 (1977)
-on behalf of party other than client
Rule 2-111(A)(5), Rules of Professional Conduct (operative until May 26, 1989)
Rule 5-210, Rules of Professional Conduct (operative as of May 27, 1989)
LA 323 (1971)

prosecutor
U.S. v. Prantil (1985) 756 F.2d 759
People v. Donaldson (2001) 93 Cal.App.4th 916 [113 Cal.Rptr.2d 548]

purpose of ethical prohibition against attorney acting as both advocate and witness
People v. Donaldson (2001) 93 Cal.App.4th 916 [113 Cal.Rptr.2d 548]

where representing client in same proceeding
-called by party other than client
Graphic Process v. Superior Court (1979) 95 Cal.App.3d 43 [156 Cal.Rptr. 841]

Communication with
LA 490 (1997), LA 234 (1956), LA 213 (1953), LA(I) 1975-3 SD 1983-9

Contact with
Rule 7-107, Rules of Professional Conduct (operative until May 26, 1989)
Rule 5-310, Rules of Professional Conduct (operative as of May 27, 1989)

WORK PRODUCT

- communication with opposing party's expert who had been withdrawn as a witness but remained a consultant warranted disqualification
County of Los Angeles v. Superior Court (1990) 222 Cal.App.3d 647 [217 Cal.Rptr. 698]
- defense attorney consults in confidence one defendant who becomes witness against other co-defendants
-attorney may not represent other co-defendants
LA 366 (1977)
- defense attorney contact treating physician of plaintiff
-notification of attorney
Rules of Professional Conduct, rule 7-107, former rule 15
SD 1983-9
- suppressing evidence which attorney has a legal obligation to reveal or produce
Rule 7-107(A), Rules of Professional Conduct (operative until May 26, 1989)
Rule 5-220, Rules of Professional Conduct (operative as of May 27, 1989)
Price v. State Bar (1982) 30 Cal.3d 537, 543-548 [179 Cal.Rptr. 914, 638 P.2d 1311]
- advising or causing witness to secrete himself
Rule 7-107, Rules of Professional Conduct (operative until May 26, 1989)
Rule 5-310, Rules of Professional Conduct (operative as of May 27, 1989)
Snyder v. State Bar (1976) 18 Cal.3d 286, 288-291 [133 Cal.Rptr. 864, 555 P.2d 1104]
Waterman v. State Bar (1936) 8 Cal.2d 17, 18-21 [63 P.2d 1133]
- Contingent fee prohibited
Ojeda v. Sharp Cabrillo Hospital (1992) 8 Cal.App.4th 1 CAL 1984-79
- Intimidation of
disbarment for soliciting intimidation of witness
In re Lee (1988) 47 Cal.3d 471 [253 Cal.Rptr. 570]
- Judge
solicited the commission of perjury in a federal investigation
In the Matter of Jenkins (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 157
- when testify as witness in a case in which he presides must give advance notice and obtain consent of parties
People v. Sweeney (1984) 150 Cal.App.3d 553 [198 Cal.Rptr. 182]
- Non-party recovery of costs of subpoena duces tecum
In re Marriage of Stephens (1984) 156 Cal.App.3d 909
- Payment to
Von Kesler v. Baker (1933) 131 Cal.App. 654
Hare v. McGue (1918) 178 Cal. 740
LA(l) 1954-6
- expert
Davis v. City and County of San Francisco (9th Cir. 1992) 976 F.2d 1536
LA(l) 1969-7
- non-expert
CAL 1997-149
- Perjury
judge solicited the commission of perjury in a federal investigation
In the Matter of Jenkins (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 157
- Physician as expert witness
communication with opposing party's medical expert who had been withdrawn as a witness but remained a consultant warranted disqualification
County of Los Angeles v. Superior Court (1990) 222 Cal.App.3d 647 [217 Cal.Rptr. 698]
SD 1984-4
- Prosecution
client in another matter
SD 1974-15
- former client is
United States v. Henke (9th Cir. 2000) 222 F.3d 633
prosecutor as witness to impeach testimony of prosecution witness' testimony
People v. Donaldson (2001) 93 Cal.App.4th 916 [113 Cal.Rptr.2d 548]
CAL 1980-52
SD 1974-15
- Purpose of rule 5-210
Smith, Smith & Kring v. Superior Court (1997) 60 Cal.App.4th 573 [70 Cal.Rptr.2d 507]
- Request warrant for absent witness when responsible for non-appearance
LA(l) 1969-9
- When counsel in case
LA 312 (1969), LA 203 (1952), LA(l) 1972-1, LA(l) 1970-13
partnership
LA 367 (1977), LA 323 (1971), LA 312 (1969)
- ## WORK PRODUCT
- Client's right to
Rose v. State Bar (1989) 49 Cal.3d 646, 654 [262 Cal.Rptr. 702]
Rumac v. Bottomley (1983) 143 Cal.App.3d 810, 812 In. 3 [192 Cal.Rptr. 104]
CAL 1994-134, CAL 1992-127, SD 1997-1, SF 1990-1
- Joint prosecution agreement pursuant to the common interest doctrine allowed sharing of experts reports without waiver of privilege/*
Armenta v. Superior Court (2002) 101 Cal.App.4th 525 [124 Cal.Rptr.2d 273]
- Of attorney
California Code of Civil Procedure section 2018 (b), (c), (f)
Wells Fargo Bank v. Superior Court (Boltwood) (2000) 22 Cal.4th 201 [901 Cal.Rptr.2d 716]
Armenta v. Superior Court (2002) 101 Cal.App.4th 525 [124 Cal.Rptr.2d 273]
Wellpoint Health Networks, Inc. v. Superior Court (1997) 59 Cal.App.4th 110 [68 Cal.App.4th 844]
State Farm Fire and Casualty Co. v. Superior Court (1997) 54 Cal.App.4th 625 [62 Cal.Rptr.2d 834]
Thompson v. Superior Court (1997) 53 Cal.App.4th 480 [61 Cal.Rptr.2d 785]
In re Tabatha G. (1994) 45 Cal.App.4th 1159 [53 Cal.Rptr.2d 93]
PSC Geothermal Services Co. v. Superior Court (1994) 25 Cal.App.4th 1697 [31 Cal.Rptr.2d 213]
CAL 1994-134, SD 1997-1
- applicable to non-attorney in propria persona litigant
Dowden v. Superior Court (1999) 73 Cal.App.4th 126 [86 Cal.Rptr.2d 180]
- belongs to attorney
Wells Fargo Bank v. Superior Court (Boltwood) (2000) 22 Cal.4th 201 [901 Cal.Rptr.2d 716]
Lasky, Haas, Cohler & Munter v. Superior Court (1985) 172 Cal.App.3d 264 [218 Cal.Rptr. 205]
- belongs to client whether or not attorney has been paid
Weiss v. Marcus (1975) 51 Cal.3d 590
CAL 1992-127
LA 330, LA 362
SD 1997-1
SF 1984-1, SF 1975-4
- general (qualified) versus attorney's impressions, conclusions, opinions, or legal research or theories (absolute)
Wells Fargo Bank v. Superior Court (Boltwood) (2000) 22 Cal.4th 201 [901 Cal.Rptr.2d 716]
BP Alaska Exploration, Inc. v. Superior Court (1988) 199 Cal.App.3d 1240 [245 Cal.Rptr. 682]
- intervention by non-party holder of privilege is not necessary or required to assert Evidence Code section 954 privilege
Mylan Laboratories, Inc. v. Soon-Shiong (1999) 76 Cal.App.4th 76 [90 Cal.Rptr.2d 111]

WORKERS' COMPENSATION

merely turning over documents prepared independently by party to attorney does not make them privileged

Green & Shinee v. Superior Court (2001) 88 Cal.App.4th 532 [105 Cal.Rptr.2d 886]

report prepared by expert-consultant is protected by the attorney's work product privilege

County of Los Angeles v. Superior Court (1990) 222 Cal.App.3d 647 [217 Cal.Rptr. 698]

standing to assert absolute or qualified privilege

State Compensation Insurance Fund v. Superior Court (People) (2001) 91 Cal.App.4th 1080, 92 Cal.App.4th 1016A [111 Cal.Rptr.2d 284, 66 Cal. Comp. Cases 1061]

Privilege

deputy district attorney cannot assert attorney-client privilege as to documents prepared in official capacity when the attorney is subject of criminal investigation

People ex rel. Lockyer v. Superior Court (Pfingst) (2000) 83 Cal.App.4th 387 [99 Cal.Rptr.2d 646]

fraud or crime exception does not apply to work product

State Farm Fire and Casualty Co. v. Superior Court (1997) 54 Cal.App.4th 625 [62 Cal.Rptr.2d 834]

hardship test for non-opinion work product discovery

Doubleday v. Ruh (1993) 149 F.R.D 601
Holmgren v. State Farm Mutual Automobile Insurance Company (9th Cir. 1992) 976 F.2d 573

must yield to a compelling public purpose

PSC Geothermal Services Co. v. Superior Court (1994) 25 Cal.App.4th 1697 [31 Cal.Rptr.2d 213]

Kizer v. Sulnick (1988) 202 Cal.App.3d 431 [248 Cal.Rptr. 712]

not found

Green & Shinee v. Superior Court (2001) 88 Cal.App.4th 532 [105 Cal.Rptr.2d 886]

relationship to Proposition 115, "Crime Victims Justice Reform Act"

Izazaga v. Superior Court (1991) 54 Cal.3d 356

standing to assert attorney-client privilege and work product doctrine

State Compensation Insurance Fund v. Superior Court (People) (2001) 91 Cal.App.4th 1080, 92 Cal.App.4th 1016A [111 Cal.Rptr.2d 284, 66 Cal. Comp. Cases 1061]

waiver

Electro Scientific Industries v. General Scanning (1997) 175 F.R.D. 539

Metro-Goldwyn-Mayer Inc. v. Superior Court (1994) 25 Cal.App.4th 242 [30 Cal.Rptr.2d 371]

employer did not waive attorney-client or attorney work product protections by providing sex discrimination claimant substantial discovery of employer's non-attorney in-house investigation report

Kaiser Foundation Hospitals v. Superior Court (1998) 66 Cal.App.4th 1217 [78 Cal.Rptr.2d 543]

Work product rule distinguished from attorney-client privilege

McMorgan & Co. v. First California Mortgage Co. (N.D. CA 1997) 931 F.Supp. 703

Admiral Insurance v. U.S. Dist. Court for Dist. of Arizona (9th Cir. 1989) 881 F.2d 1486

Wellpoint Health Networks, Inc. v. Superior Court (1997) 59 Cal.App.4th 110 [68 Cal.Rptr.2d 844]

WORKERS' COMPENSATION [See Administrative agency.]

Advertising

Labor Code sections 5430-5434

79 Ops. Cal. Atty. Gen. 258 (11/21/96; No. 96-309)

Tillman v. Miller (N.D. GA 1995) 917 F.Supp. 799

Attorney-client privilege and work product doctrine

State Compensation Insurance Fund v. Superior Court (People) (2001) 91 Cal.App.4th 1080, 92 Cal.App.4th 1016A [111 Cal.Rptr.2d 284, 66 Cal. Comp. Cases 1061]

Contingent fee contracts

to represent plaintiff

-exempt from written contract provisions

Business and Professions Code section 6147(c)

Disregard of order by a workers' compensation judge violates Business & Professions Code section 6103

In the Matter of Lantz (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 126

Fees

claimant's attorneys is not entitled to fees from settlement proceeds under Labor Code §§ 3856 and 3860 if claimant received no benefit from the settlement

Draper v. Aceto (2001) 26 Cal.4th 1086 [113 Cal.Rptr.2d 61]

COMPENDIUM UPDATE CASE LIST

Publisher's note: For your convenience, the following is an alphabetical list of the new cases added to the 2004 update of the index to the *California Compendium on Professional Responsibility*. This list covers cases from the period of January 2002 to December 2002. In addition, a few cases from prior years have been added to the *Compendium* in this 2004 update.

Andre v. City of West Sacramento (2001) 92 Cal.App.4th 532 [111 Cal.Rptr.2d 891]
Armenta v. Superior Court (2002) 101 Cal.App.4th 525 [124 Cal.Rptr.2d 273]
Avila v. Galaza (9th Cir. 2002) 297 F.3d 911
Banks v. Hathaway, Perrett, Webster, Powers & Chrisman (2002) 97 Cal.App.4th 949 [118 Cal.Rptr.2d 803]
Beck v. Wecht (2002) 28 Cal.4th 289 [121 Cal.Rptr.2d 384]
Bell v. Cone (2002) 535 U.S. 685 [122 S.Ct. 1843]
Benasra v. Mitchell Silberberg & Knupp (2002) 96 Cal.App.4th 96 [116 Cal.Rptr.2d 644]
California Department of Forestry & Fire Protection v. LeBrock (2002) 96 Cal.App.4th 1137 [117 Cal.Rptr.2d 790]
Campbell v. Rice (9th Cir. 2001) 265 F.3d 878
Caressa Camille Inc. v. Alcohol Beverage Control Appeals Board (2002) 99 Cal.App.4th 1094 [121 Cal.Rptr.2d 758]
Caro v. Woodford (9th Cir. 2002) 280 F.3d 1247
Carroll v. Interstate Brands Corp. (2002) 99 Cal.App.4th 1168 [121 Cal.Rptr.2d 532]
Carroll v. Superior Court (2002) 101 Cal.App.4th 1423 [124 Cal.Rptr.2d 891]
Carver v. Chevron U.S.A., Inc. (2002) 97 Cal.App.4th 132 [118 Cal.Rptr.2d 569]
Chambers v. Kay (2002) 29 Cal.4th 142 [126 Cal.Rptr.2d 536]
City of Huntington Beach v. Peterson Law Firm (2002) 95 Cal.App.4th 562 [115 Cal.Rptr.2d 568]
Community Dental Services v. Tani (2002) 282 F.3d 1164
CPI Builders, Inc. v. IMPCO Technologies, Inc. (2001) 94 Cal.App.4th 1167 [114 Cal.Rptr.2d 851]
DCH Health Services Corp. v. Waite (2002) 95 Cal.App.4th 829 [115 Cal.Rptr.2d 847]
Delaney v. Dahl (2002) 99 Cal.App.4th 647 [121 Cal.Rptr.2d 663]
DeRose v. Heurlin (2002) 100 Cal.App.4th 158 [122 Cal.Rptr.2d 630]
Eskanos & Adler, P.C. v. Leetien (9th Cir. 2002) 309 F.3d 1210
Fine v. Superior Court (2002) 97 Cal.App.4th 651 [119 Cal.Rptr.2d 376]
First Security Bank of California, N.A. v. Paquet (2002) 98 Cal.App.4th 468 [119 Cal.Rptr.2d 787]
Fischel v. Equitable Life Assurance Society of the U.S. (9th Cir. 2002) 307 F.3d 997
Gafcon, Inc. v. Ponsor & Associates (2002) 98 Cal.App.4th 1388 [120 Cal.Rptr.2d 392]
Gardner v. State Bar of Nevada (9th Cir. (Nevada) 2002) 284 F.3d 1040
Garretson v. Harold I. Miller (2002) 99 Cal.App.4th 563 [121 Cal.Rptr.2d 317]
Gisbrecht v. Barnhart (2002) 535 U.S. 789 [122 S.Ct. 1817; 152 L.Ed.2d 996]
Gray v. Stewart (2002) 97 Cal.App.4th 1394 [119 Cal.Rptr.2d 217]
Great-West Life & Annuity Ins. Co. v. Knudson (2002) 534 U.S. 204 [122 S.Ct. 708]
Greene v. Dillingham Construction, N.A., Inc. (2002) 101 Cal.App.4th 418 [124 Cal.Rptr.2d 250]
Hambarian v. Superior Court (2002) 27 Cal.4th 826 [118 Cal.Rptr.2d 725]
Harris v. Sandro (2002) 96 Cal.App.4th 1310 [117 Cal.Rptr.2d 910]
Home Insurance Co. v. Zurich Insurance Co. (2002) 96 Cal.App.4th 17 [116 Cal.Rptr.2d 583]
Hu v. Fang (2002) 104 Cal.App.4th 61 [127 Cal.Rptr.2d 756]
In re Blum (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 403
In re Bodell (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 459
In re Charles T. (2002) 102 Cal.App.4th 869 [125 Cal.Rptr.2d 868]
In re Deville (9th Cir. BAP 2002) 280 B.R. 483

In re Gadda (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 416
In re Gillis (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 387
In re Kramer (9th Cir. 2002) 282 F.3d 721
In re Kreitenberg (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 469
In re Marriage of Friedman (2002) 100 Cal.App.4th 65 [122 Cal.Rptr.2d 412]
In re Marriage of Read (2002) 97 Cal.App.4th 476 [118 Cal.Rptr.2d 497]
In re McCarthy (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 364
In re O.S. (2002) 102 Cal.App.4th 1402 [126 Cal.Rptr.2d 571]
In re Peavey (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 483
In re Scott (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 446
In re Valinoti (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 498
Jennings v. Woodford (9th Cir. 2002) 290 F.3d 1006
Kahn v. Chetcuti (2002) 101 Cal.App.4th 61 [123 Cal.Rptr.2d 606]
Kaplan v. Fairway Oaks Homeowners Ass'n (2002) 98 Cal.App.4th 715 [120 Cal.Rptr.2d 158]
Karis v. Calderon (9th Cir. 2002) 283 F.3d 1117
Laborde v. Aronson (2001) 92 Cal.App.4th 459 [112 Cal.Rptr.2d 119]
Labotest, Inc. v. Bonta (9th Cir. 2002) 297 F.3d 892
Leasequip, Inc. v. Dapeer (2002) 103 Cal.App.4th 394 [126 Cal.Rptr.2d 782]
Little v. Kern County Superior Court (2002) 294 F.3d 1075
Lolley v. Campbell (2002) 28 Cal.4th 367 [121 Cal.Rptr.2d 571]
Lott v. Mueller (9th Cir. 2002) 304 F.3d 918
Luna v. Cambra (9th Cir. 2002) 306 F.3d 954
Lynch v. Warwick (2002) 95 Cal.App.4th 267 [115 Cal.Rptr.2d 391]
Mickens v. Taylor (2002) 535 U.S. 1074 [122 S.Ct. 1237]
Mix v. Tumanjan Development Corp. (2002) 102 Cal.App.4th 1318 [126 Cal.Rptr.2d 267]
Morrison v. Rudolph (2002) 103 Cal.App.4th 506 [126 Cal.Rptr.2d 747]
Musser v. Provencher (2002) 28 Cal.4th 274 [121 Cal.Rptr.2d 373]
Neal v. Health Net, Inc. (2002) 100 Cal.App.4th 831 [123 Cal.Rptr.2d 202]
New Plumbing Contractors, Inc. v. Edwards, Sooy & Byron (2002) 99 Cal.App.4th 799 [121 Cal.Rptr.2d 472]
Osband v. Woodford (9th Cir. 2002) 282 F.3d 1125
Pangborn Plumbing Corp. v. Carruthers & Skiffington (2002) 97 Cal.App.4th 1039 [119 Cal.Rptr.2d 416]
People v. Adkins (2002) 103 Cal.App.4th 942 [127 Cal.Rptr.2d 236]
People v. Fulton (2002) 99 Cal.App.4th 1292 [121 Cal.Rptr.2d 828]
Pfingston v. Ronan Engineering Co. (9th Cir. 2002) 284 F.3d 999
Powers v. Dickson, Carlson & Campillo (1997) 54 Cal.App.4th 1102 [63 Cal.Rptr.2d 261]
PR Burke Corp. v. Victor Valley Wastewater Reclamation Authority (2002) 98 Cal.App.4th 1047 [120 Cal.Rptr.2d 98]
Ross v. Creel Printing & Publishing Co. (2002) 100 Cal.App.4th 736 [122 Cal.Rptr.2d 787]
Russell v. Hug (9th Cir. 2002) 275 F.3d 812
San Francisco N.A.A.C.P. v. San Francisco Unified School District (9th Cir. 2002) 284 F.3d 1163
Schmier v. Supreme Court (2000) 96 Cal.App.4th 873 [117 Cal.Rptr.2d 497]
Silver v. Boatwright Home Inspection, Inc. (2002) 97 Cal.App.4th 443 [118 Cal.Rptr.2d 475]
Sinyard v. Commissioner of Internal Revenue (9th Cir. 2001) 268 F.3d 756
Smith v. Rae-Venter Law Group (2002) 29 Cal.4th 345 [127 Cal.Rptr.2d 516]
State Water Resources Control Bd. v. Superior Court (2002) 97 Cal.App.4th 907 [118 Cal.Rptr.2d 784]

2004 Compendium Case List, continued:

Swat-Fame, Inc. v. Goldstein (2002) 101 Cal.App.4th 613 [124 Cal.Rptr.2d 556]
Topanga and Victory Partners v. Toghia (2002) 103 Cal.App.4th 775 [127 Cal.Rptr.2d 104]
Truesdell v. Southern California Permanente Medical Group (9th Cir. 2002) 293 F.3d 1146
U.S. v. Alexander (9th Cir.(Montana) 2002) 287 F.3d 811
U.S. v. Campbell (9th Cir. 2002) 291 F.3d 1169
U.S. v. Day (9th Cir. 2002) 285 F.3d 1167
U.S. v. Marolf (9th Cir. 2002) 277 F.3d 1156
U.S. v. Real Property at 2659 Roundhill Drive, Alamo, California (9th Cir. 2002) 283 F.3d 1146
U.S. v. Walters (2002) 309 F.3d 589
Village Nurseries, L.P. v. Greenbaum (2002) 101 Cal.App.4th 26 [123 Cal.Rptr.2d 555]
Visciotti v. Woodford (9th Cir. 2002) 288 F.3d 1097
Watson v. County of Riverside (9th Cir. 2002) 300 F.3d 1092
Whittlesey v. Aiello (2002) 104 Cal.App.4th 1221 [128 Cal.Rptr.2d 742]
Wilkerson v. Sullivan (2002) 99 Cal.App.4th 443 [121 Cal.Rptr.2d 275]
Wininger v. SI Management, L.P. (9th Cir. 2002) 301 F.3d 1115
Wong v. Thrifty Corp. (2002) 97 Cal.App.4th 261 [118 Cal.Rptr.2d 276]
Yuba Cypress Housing Partners, Ltd. v. Area Developers (2002) 98 Cal.App.4th 1077 [120 Cal.Rptr.2d 273]

HOW TO USE THIS COMPENDIUM

A. OVERVIEW

The California Compendium on Professional Responsibility has been designed with a twofold purpose. First and foremost, it has been designed as a desk manual for practicing lawyers and legal workers. Almost every lawyer encounters questions of professional responsibility in day-to-day practice. This *Compendium* is a ready reference which provides, in one place, a variety of authorities, resources, and information on specific issues and questions concerning the professional responsibilities of members of the bar. When a novel or unique issue requires resolution, the *Compendium* provides resources concerning analogous issues and suggested sources of additional assistance in its resolution.

The *Compendium* is also designed to be a reference for those who have special expertise in the field of professional responsibility (for example, a professor of professional responsibility at a law school, providing advice and consultation to other lawyers concerning professional responsibility problems, or a member of an ethics committee, a client relations committee, or the State Bar Court). The *Compendium* represents an attempt to collect all of the resources on the law of professional responsibility in California. This section explains the steps that the editors believe may be helpful in facilitating the use of this *Compendium* to research ethics questions.

B. THE PROFESSIONAL STANDARDS OF LAWYERS

Members of the State Bar of California are bound to conduct themselves in accordance with legislative standards which are set forth primarily in the State Bar Act (Bus. & Prof. Code, sec. 6000 et seq.) and with standards approved by the Supreme Court of California, embodied within the Rules of Professional Conduct and decisional law. Some of the Rules of Professional Conduct are derived from the American Bar Association Model Code of Professional Responsibility, adopted in 1969 (see cross-reference table at Part III D, *infra*). The provisions of the American Bar Association Model Code and Model Rules, however, are not grounds for discipline of members of the bar in California. (See Bus. & Prof. Code, secs. 6077, 6100.)

1. The full text of all professional obligations of lawyers are set forth in the Compendium.

The full text of the State Bar Act, the Rules of Professional Conduct, and other related statutes are set forth in State Bar publication No. 250, reprinted at Part 1 A of the *Compendium*. Publication No. 250 is published or supplemented annually by the State Bar of California as a public service. The provisions published in Publication No. 250 are also available free in electronic form from the State Bar's website at www.calbar.ca.gov/ethics. All authorities found in Publication No. 250 have been cross referenced in the index at the end of this *Compendium* by subject matter, code, and/or rule number. For example, if you had a question about the obligations of members of the bar respecting the maintenance of client trust funds, you could consult the following index listings:

RULES OF PROFESSIONAL CONDUCT

Rule 4-100

BUSINESS AND PROFESSIONS CODE

Section 6210

Section 6211

Section 6212

CLIENTS' TRUST ACCOUNT

COMMINGLING

These listings will give you authorities interpreting rule 4-100 of the Rules of Professional Conduct and also will refer you to **CLIENTS' TRUST ACCOUNT** for additional authorities.

2. Other publications relating to the professional obligations of lawyers.

Annotations to The State Bar Act (commencing at Bus. & Prof. Code, sec. 6000 et seq.) are published by both West Publishing Company and Bancroft Whitney Publishing Company (entitled West's and Deering's Annotated Business and Professions Codes).

The full text, accompanied by annotations to the Rules of Professional Conduct of The State Bar of California, may also be found in the "Court Rules" volumes published as part of the California Annotated Codes by Bancroft Whitney (Deering's) and West Publishing Company.

3. Shepard's California Citations.

Additional authorities citing Business and Professions Code sections are listed alphabetically in Shepard's California Citations, Part II (Statutes, Rules and Ordinances). Part II of Shepard's California Citations also contains citations to the Rules of Professional Conduct of the State Bar and to the American Bar Association Model Code of Professional

Responsibility. These are located near the end of the volumes containing the California Rules of Professional Conduct, following the California Code of Judicial Ethics. Since neither the Code of Judicial Ethics nor the Rules of Professional Conduct are listed in Shepard's Table of Contents, readers should consult the listing for the California Rules of Court.

4. Background Materials Concerning Certain Rules of Professional Conduct.

Many judicial cases issued prior to 1975 refer to Rules of Professional Conduct numbered from 1 through 23. These Rules of Professional Conduct were originally adopted in 1928, following the creation of the State Bar ((1928) 201 Cal. Rules) and remained the obligations of members of the bar until they were repealed effective December 31, 1974. On January 1, 1975 an entirely new set of Rules of Professional Conduct became operative. On May 27, 1989, a new set of revised, renamed and renumbered rules became operative. A table cross-referencing the former Rules of Professional Conduct (operative 1975) to the current Rules of Professional Conduct (operative 1989) is included at Part III D of this *Compendium*.

There is little official documentation available concerning the history and intent of the State Bar Board of Governors in promulgating particular Rules of Professional Conduct pursuant to Business and Professions Code section 6070 prior to 1979. However, from 1979 through the present, the Office of Professional Competence, Planning and Development has maintained the public record of Board considerations of particular Rules of Professional Conduct. You may obtain a copy of such public record, at a nominal cost for reproduction, postage and handling, by requesting it from that office.

C. INTERPRETATION OF THE PROFESSIONAL STANDARDS OF LAWYERS: CASE AUTHORITY

California courts have spoken in the widest variety of cases concerning the professional responsibilities of lawyers. These are found not only in disciplinary proceedings but also, for example, in criminal cases concerning effective representation of counsel or misconduct; in professional liability cases; in cases pending before all types of tribunals involving recusal, disqualification or withdrawal of counsel. These authorities have been collected, cross-referenced and indexed by subject matter. The present index includes California cases, selected United States Supreme Court opinions, case authority from the United States Court of Appeals for the Ninth Circuit and the United States District Courts in California. (See *infra*, part F, How To Use The Index.)

D. ETHICS OPINIONS

The State Bar of California and several local bar associations have established committees composed of volunteer lawyers who render ethics opinions to members of the bar. The purpose of these committee's opinions is to assist members to maintain and improve their professional responsibilities.

Opinions authorized for publication by the State Bar's Standing Committee on Professional Responsibility and Conduct are reprinted here behind the tab labeled "Part II A." For convenience of reference, there are two independent pagination systems. Pagination at the bottom of the page designates the tab number and the consecutively numbered page within the tab. (Example: "II A-23" is the 23rd page within Tab II A.) This system permits updating and easy incorporation of new opinions without the need for renumbering. Pagination at the top outside corner includes the abbreviation "CAL" (designating that the opinion is promulgated by the Committee on Professional Responsibility and Conduct). The numbers next to "CAL" designates the year in which the opinion was approved, its consecutive number assigned by the Committee, and the page number within the opinion. For example: "CAL 1981-64, page 3" denotes that, the opinion was approved in 1981, that it was the sixty-fourth opinion published by the Committee, and that it is the third page of the opinion.

Opinions promulgated by the Legal Ethics Committee of the Bar Association of San Francisco are reprinted behind the tab labeled "II B." The pagination at the bottom of the page again indicates the consecutive numbering of opinions within the tab. Pagination at the top outside corners is consistent with the following example: "SF 1980-1 page 2:" "SF" means the opinion is promulgated by the Legal Ethics Committee of the Bar Association of San Francisco; "1980-1" indicates that the opinion was approved in 1980 and that it was the first opinion approved that year; "page 2" indicates the consecutive pagination within the opinion.

Opinions promulgated by the San Diego County Bar Association Legal Ethics and Unlawful Practices Committee are reprinted behind Tab II C. The pagination at the bottom of the page again indicates the consecutive numbering within the tab. Pagination at the top outside corners appears as in the following example: "SD 1970-1 page 2:" "SD" means the opinion is promulgated by the San Diego County Bar Association Legal Ethics and Unlawful Practice Committee; "1970-1" indicates that the opinion was approved in 1970 and was the first opinion approved in 1970; "page 2" indicates that it is the second page within the opinion.

The Los Angeles County Bar Association has been publishing formal and informal ethics opinions since the 1920's. The formal opinions issued from 1968 to present are reprinted here behind the tab labeled "Ethics Opinions: Los Angeles."

In order to facilitate researching professional responsibility questions, the index contains references to all published California ethics opinions by subject matter.

The Office of Professional Competence, Planning, and Development of the State Bar of California operates a telephone "Ethics Hotline" as a service to members of the bar. The staff of the "Ethics Hotline" is not authorized to render opinions concerning specific problems but will discuss all issues perceived in the facts and circumstances presented and will furnish the inquiring member with as many relevant authorities as possible.

E. JUDICIAL ETHICS

What constitutes misconduct by a judge is set forth in article VI, section 18 of the California Constitution. These constitutional provisions have been reprinted for your ready reference behind Tab IV A.

Tab IV B contains the full text of the California Code of Judicial Ethics adopted by the former Conference of California Judges (now the California Judges Association).

F. HOW TO USE THE INDEX

The subject listings in this index were adapted from the *1980 Supplement to Digest of Bar Association Ethics Opinions* edited by Olavi Maru, with the permission of the American Bar Foundation. Accordingly, the listings in this index are compatible with and cumulative to the listings in the American Bar Association professional responsibility materials, which should be consulted for the views of other jurisdictions.

The index contains subject listings which are alphabetically arranged. The Rules of Professional Conduct are listed in alphabetical order under "Rules" and each specific rule follows in numerical order. Selected statutes are listed alphabetically by code and numerically by statute number.

There are many subject listings with one or more cross-references for quick reference to the appropriate authorities. Authorities under each subject heading are listed in the following order of priority:

- Rules of Professional Conduct
- Selected statutes
- Other Selected Rules
- California Supreme Court Cases
(most recent cases first, descending chronologically to oldest cases)
- California Court of Appeal Cases
(most recent cases first, descending chronologically to oldest cases)
- California Ethics Opinions
- Selected California Attorney General Opinions.

**** SPECIAL NOTE **:** --CASES PRECEDED BY AN ASTERISK (*) SHOULD BE CAREFULLY SHEPARDIZED, AS THEY ARE SUBJECT TO REVIEW (AT THE TIME OF PUBLICATION OF THIS *COMPENDIUM* UPDATE), OR HAVE BEEN OVERRULED OR DISAPPROVED EITHER WHOLLY OR IN PART BY THE SUPREME COURT OF CALIFORNIA.
--CASES PRECEDED BY A CROSS SYMBOL (+) ARE STATE BAR COURT REVIEW DEPARTMENT DECISIONS WHICH ARE EITHER TEMPORARILY OR PERMANENTLY DEPUBLISHED DUE TO A PETITION FOR REVIEW BY THE CALIFORNIA SUPREME COURT. (SEE RULE 310, RULES OF PROCEDURE FOR STATE BAR COURT PROCEEDINGS (EFF. JANUARY 1, 1995).) PLEASE CHECK THE STATUS OF THE DECISION BEFORE CITING THE CASE AS AUTHORITY. (SEE "HOW TO USE" AND "TABLE OF CASES AND SUBSEQUENT HISTORY" SECTIONS, CALIFORNIA STATE BAR COURT REPORTER.)

The intent of the index is to access all California authorities under a particular subject at a glance. Examples of references to California ethics opinions within the index follow:

- CAL 1981-64: Formal Opinion No. 1981-64 of the State Bar's Standing Committee on Professional Responsibility and Conduct. (The full text of each opinion is reprinted within Tab II A).
- LA 402 (1982): Formal Opinion No. 492 of the Los Angeles County Bar Association Legal Ethics Committee. (The full text of each formal opinion is reprinted behind the Ethics Opinions: Los Angeles tab).
- LA (I) 1970-1: Informal Opinion No. 1970-1 of the Los Angeles County Bar Association Legal Ethics Committee.
- OCBA 93-001: Formal Opinion No. 93-001 of the Orange County Bar Association. (The full text of each formal opinion is reprinted within Tab II D.)
- SD 1970-1: Opinion No. 1970-1 of the San Diego County Bar Association Legal Ethics and Unlawful Practice Committee. (The full text of each opinion is reprinted within Tab II C.)
- SF 1980-1: Opinion No. 1980-1 of the Legal Ethics Committee of the Bar Association of San Francisco. (The full text of each opinion is reprinted within Tab II B.)

G. BEYOND THIS COMPENDIUM

Set forth within Tab III C are policy statements adopted by the Board of Governors which provide additional guidance on particular subjects concerning the professional responsibilities of lawyers.

Tab III A contains a bibliography of publications and other resources on ethics, professional responsibility, attorney competence, and discipline. Some professional responsibility issues may not be resolved by reference to the authorities and resources contained in this *Compendium*. The user may wish to request a formal or informal ethics opinion from one of the local bar association ethics committees or from the State Bar's Committee on Professional Responsibility and Conduct. (For convenience, the Rules of Procedure of the State Bar Committee on Professional Responsibility and Conduct are reprinted at Tab III C. Local bar committees should be consulted regarding their respective procedural rules for requesting ethics opinions.)

The State Bar's "Ethics Hotline" is operated at the San Francisco office of the State Bar according to the following schedule. When calling, inquirers should ask for the "Ethics Hotline."

Monday through Friday
9:00 a.m. - 5:00 p.m.
Telephone: (415) 538-2150
Within California Call **Toll Free:(800) 2-ETHICS** (800-238-4427)

The California Judges Association has an established judicial ethics committee. For more information contact:

Executive Director
California Judges Association
1700 Broadway, 7th Floor
Oakland, California 94612-2116
Telephone: (510) 588-5000

This *Compendium* is an evolutionary document. If you discover authorities or other resources you believe should be added, please share them with the editors.